

5

5, 1969

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No. 35 of 1966

ON APPEAL FROM
THE FEDERAL COURT OF MALAYSIA
HOLDEN AT SINGAPORE
(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO. 111 of 1964
SINGAPORE HIGH COURT SUIT NO. 368 of 1961

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
- 9 MAR 1970
25 PATERNOSTER SQUARE
LONDON, W.C.1.

B E T W E E N :

- 1. SYED AHMED BIN ALWEE AL-JUNIED
 - 2. DATO SYED AHMAD BIN MOHAMED ALSAGOFF
 - 3. SYED MOHAMED BIN ALI ALSAGOFF
(Trustees of the estate of Syed Ahmed bin
Abdulrahman Alsagoff, deceased) Appellants
- and -
- MUCHOOL KHANUM RESHTY (Widow) Respondent

AND B E T W E E N :

- MUCHOOL KHANUM RESHTY (Widow) Appellant
- and -
- 1. SYED AHMED BIN ALWEE AL-JUNIED
 - 2. DATO SYED AHMAD BIN MOHAMED ALSAGOFF
 - 3. SYED MOHAMED BIN ALI ALSAGOFF
(Trustees of the estate of Syed Ahmed bin
Abdulrahman Alsagoff, deceased) Respondents

R E C O R D O F P R O C E E D I N G S

Messrs. Speechly Mumford & Soames,
10 New Square,
Lincoln's Inn,
London, W.C.2.

Solicitors for the Appellants

Messrs. Linklaters & Paines,
Barrington House,
59/67 Gresham Street,
London, E.C.2.

Solicitors for the Respondents

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HOLDEN AT SINGAPORE
(APPELLATE JURISDICTION)

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AND B E T W E E N :

MUCHOOL KHANUM RESHTY (Widow) Appellant

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2. DATO SYED AHMAD BIN MOHAMED ALSAGOFF
3. SYED MOHAMED BIN ALI ALSAGOFF
(Trustees of the estate of Syed Ahmed bin
Abdulrahman Alsagoff, deceased) Respondents

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D 8	Letter from Donaldson & Burkinshaw to Defendant	23rd February 1960
D 9	Letter from Defendant to Donaldson & Burkinshaw	28th February 1960
D 10	Letter from Donaldson & Burkinshaw to Defendant	6th April 1960

Exhibit Mark	Description of Document	Date
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D 12	Application for Building Permit	16th March 1960
D 13	Defendant's Ledger	
<p data-bbox="316 804 906 840"><u>NOTE:</u> There is no Exhibit D 4</p>		

In the High
Court of
Singapore

NO. 1

WRIT OF SUMMONS

—
No. 1
Writ of
Summons

The Plaintiffs claim as trustees under the Will of Syed Ahmad bin Abdulrahman Alsagoff, Deceased, for:

(1) Possession of the lands known respectively as:

(a) Part of Lot 322 (formerly part of Lot 1-42);

(b) Lot 1-52 (formerly part of Lot 1-42);

10

(c) Lot 1-20

(d) Lot 1-26; and

(e) Lot 1-47 (formerly Lot 1-27),

all of Mukim XXIII, Singapore, together with the buildings erected thereon;

(2) Mesne profits;

(3) Damages for breach of covenant;

(4) Costs.

20

—
NO. 2

No. 2

FURTHER AMENDED STATEMENT OF CLAIM

Further
Amended
Statement
of Claim
Re-dated
12th
February
1964

1. The Plaintiffs' (as Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased) claim is for possession of all that piece of land situated in the District of Paya Lebar in the Island of Singapore being part of Lot 322 (formerly part of Lot 1-42), Lot 1-52 (formerly part of Lot 1-42) Lot 1-20, Lot 1-26 and Lot 1-47 (formerly Lot 1-27) all of Mukim XXIII, Singapore, which said pieces of

30

land form parts of the land comprised in Grants 52, 63, 81, 25, 78 and 70 or some of them, together with the buildings erected thereon and more particularly delineated and coloured yellow in the Plan annexed to the undermentioned Indenture of Lease dated the 28th September, 1953.

In the High
Court of
Singapore

—
No. 2

Further
Amended
Statement
of Claim
Re-dated
12th
February
1964

(contd.)

10 2. By an Indenture of Lease dated the 28th September, 1953 made between Syed Ahmed bin Alwee Al-Junied of 108, Rochore Road, Singapore, and John Harold Phillips of 11-2 Holland Road, Singapore, the Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased, of the one part and the Defendant of the other part, the said Trustees, Syed Ahmed bin Alwee Al-Junied and John Harold Phillips demised the said land to the Defendant for a term of five years from the 1st day of April, 1953, at the monthly rent of \$1,300/- payable monthly on the 20 1st day of each calendar month for and in respect of the month preceding.

3. By a Deed of Appointment made on the 28th May, 1957 the said John Harold Phillips retired as Trustee of the Estate and Robert Donald Stewart of The Singapore Club, Singapore, and Dato Syed Ahmed bin Mohamed Alsagoff No.20, Palm Road, Singapore, were appointed to act as new Trustees together with the said continuing Trustee, Syed Ahmed bin Alwee Al-Junied.

30 4. By a Deed of Appointment dated the 1st September 1960 the said Robert Donald Stewart retired as Trustee of the said Estate and Syed Mohamed bin Ali Alsagoff of No.16, Nassim Road, Singapore, was appointed to act as a new Trustee with the said continuing Trustees, Syed Ahmed bin Alwee Al-Junied and Dato Syed bin Mohamed Alsagoff.

40 5. The said Syed Ahmed bin Alwee Al-Junied and the said Dato Syed Ahmed bin Mohamed Alsagoff and the said Syed Mohamed bin Ali Alsagoff are the present trustees of the said Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased, and are the persons in whom the said land and all title and interest in the same and to and in the reversion dependent on the said term and were

In the High
Court of
Singapore

—
No. 2

Further
Amended
Statement
of Claim
Re-dated
12th
February
1964

(contd)

and are now vested and are the Plaintiffs in this action.

6. The said Indenture of Lease expired on the 31st March, 1958.

7. The Defendant remained on the said land at the expiration of the said Indenture of Lease and from the date of such expiration was a tenant at will or from month to month on the same terms as were contained in the expired Lease paying a monthly rent of \$1,400/- to the Plaintiff.

10

8. By the said Indenture of Lease the Defendant had covenanted for herself her executors, administrators and assigns among other covenants as follows:-

(a) Not to erect or build or permit to be erected or built on the demised premises any buildings and not to make any additions or alterations to any buildings thereon without the previous consent in writing of the Plaintiffs.

20

(b) Not to assign, sub-lease or part with the possession of the demised premises or any part thereof without first obtaining the written consent of the Plaintiffs.

(c) Not to use or permit the said premises or any part thereof to be used for any purpose that may be offensive or a nuisance to the Plaintiffs.

9. The Defendant while in possession of the said land committed the following breaches of covenant. Particulars of the breaches of covenants:

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(a) She erected built or permitted to be erected or built certain buildings on the said land without the previous consent in writing of the Plaintiffs and also made or allowed to be made various additions and alterations to the buildings thereon without the like consent of the Plaintiffs. Full particulars of these breaches have been communicated in various letters to the

40

Defendant before the issue of this Writ.
Among these illegal erections and
additions were:-

In the High
Court of
Singapore

- (i) 3 rows of 13 dwelling houses in
Paya Lebar Road.
- (ii) 1 row of 3 barrack houses at Jalan
Ubi.
- (iii) 1 row of 5 dwelling houses at
Jalan Ubi.
- 10 (iv) Re-erection of house No.754-J,
Off Airport Road.
- (v) Re-erection of house No.754-M,
Off Airport Road.
- (vi) Plank and corrugated iron roof
house (next to 929-A, Off
Airport Road).
- (vii) Re-erection of house No. 939, Off
Airport Road.
- 20 (viii) Plank and corrugated iron roofed
house (next to 941) off Airport Road.
- (ix) Plank and corrugated iron roofed
house (next to 754-F) off Airport
Road.
- (x) Block of 2 terrace houses on site
of old house at Jalan Alsagoff.
- (xi) Block of 8 terrace houses off Paya
Lebar Road.
- (xii) Extensions to No.125, Jalan Alsagoff.
- (xiii) Extensions to No.661-A, Jalan Ubi.
- 30 (xiv) 4 terrace houses behind 982-A, Paya
Lebar Road.
- (xv) 2 blocks of 6 dwelling houses at
Airport Road.
- (xvi) 2 blocks of 6 barrack houses at
Airport Road.

—
No. 2

Further
Amended
Statement
of Claim
Re-dated
12th February
1964

(contd)

In the High
Court of
Singapore

No. 2

Further
Amended
Statement
of Claim
Re-dated
12th
February
1964

(contd)

- (b) She also assigned, sub-leased or parted with the possession of the land on which these illegal buildings were erected without the written consent of the Plaintiffs.
- (c) These erections and additions to the Buildings were moreover put up without the previous consent or permission of the public authorities as a result of which the Plaintiffs as lessors and owners of the land were summoned and fined at various times and these constructions of illegal buildings were and still are continual nuisances to the Plaintiffs. 10
- (d) Since the issue of the Writ in this action the Plaintiffs have been prosecuted on 38 occasions in respect of illegal structures on the demised premises.

Particulars of Summonses

1.	9. 5.61	Summonses Nos.472, 473, 474, 475, 476 and 477	20
2.	23. 5.61	" " 484, 485 and 486	
3.	9. 6.61	" " 547,548 and 549	
4.	11. 8.61	" " 218,219 and 220	
5.	11. 8.61	" " 724, 725 and 726	
6.	11. 8.61	" " 187, 188 and 189	
7.	6.10.61	" " 221, 222 and 223	
8.	6.10.61	" " 852,853 and 854	
9.	6.10.61	" " 855, 856 and 857	
10.	12.10.61	" " 464, 465 and 466	
11.	12.10.61	" " 959, 960 and 961	30
12.	12.10.61	" " 926, 927 and 928	
13.	12.10.61	" " 929, 930 and 931	
14.	18.11.61	" " 245, 246 and 247	
15.	20.11.61	" " 248, 249 and 250	
16.	4.12.61	" " 145, 146 and 147	
17.	4.12.61	" " 355, 356 and 357	
18.	16. 1.62	" " 562, 563 and 564	
19.	30. 1.62	" " 1008,1009 and 1010	

	20.	30. 1.62	Summonses Nos.1421, 1422 and 1423	In the High Court of Singapore
	21.	9. 2.62	" " 467, 468 and 469	
	22.	9.2.62	" " 962,963 and 964	---
	23.	26. 3.62	" " 1424, 1425 and 1426	No. 2
	24.	3. 5. 62	" " 965, 966 and 967	Further Amended Statement of Claim Re-dated 12th February 1964
	25.	3. 5.62	" " 1002, 1003 and 1004	
	26.	23. 5.62	" " 1346, 1347 and 1348	
	27.	25. 5.62	" " 1403, 1404 and 1405	
	28.	29. 5.62	" " 1457, 1458 and 1459	
10	29.	31. 5.62	" " 1415, 1416 and 1417	(contd)
	30.	31. 5.62	" " 1418, 1419 and 1420	
	31.	27. 7.62	" " 1847, 1848 and 1849	
	32.	3.10.62	" " 41, 42 and 43	
	33.	16.10.62	" " 44, 45 and 46	
	34.	2.10.62	" " 38, 39 and 40	
	35.	1.12.62	" " 1027, 1028 and 1029	
	36.	5. 1. 63	" " 1006, 1007 and 1008	
	37.	12. 2.63	" " 786, 787 and 788	
	38.	29. 3.63	" " 775, 776 and 777	

20 9 A. The Defendant has broken an obligation of the tenancy by failing to supply the Plaintiffs with particulars of occupancy under Section 21 of the Control of Rent Ordinance and it is reasonable that an Order for possession should be made.

PARTICULARS OF SPECIAL DAMAGE

LEGAL COSTS

30 The Plaintiffs have incurred the following legal costs in connection with representation before the Police Courts at the hearing of the Summonses referred to in paragraph 9 (c) above.

20th November 1959	Messrs. Donaldson & Burkinshaw's Bill	£ 483.60
14th November 1960	-do-	£ 354.40
14th November 1960	-do-	£ 76.00

In the High Court of Singapore

25th November 1960	Messrs. Donaldson & Burkinshaw's Bill	₹ 126.00
8th December 1960	- do -	₹ 126.00

No. 2

Further Amended Statement of Claim Re-dated 12th February 1964

₹ 1,166.00

(contd)

10. The said Indenture of Lease contained a proviso for re-entry and the determination of the Lease in case of any breach of the aforesaid covenants.

11. At all material times the premises erected on the property have been and are domestic premises and neither the tenant nor any member of her family has been residing there.

10

11.(a) At the date hereof many of the buildings on the land were constructed since the Seventh day of September, 1947, and the rent received by the Defendant in respect of these buildings exceeds ₹3,000/- per month. Alternatively, the Defendant has let vacant land comprised in the demised premises at a total rent exceeding ₹3,000/- per month.

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12. At all material times the Defendant has been receiving from her sub-tenants more than 110% of the rent which she herself pays to the Plaintiffs in respect of buildings built or completed before the month of September, 1947 and contained in the demised premises.

12.(a) The Plaintiffs repeat Paragraphs 9, 11 and 11 (a) and will submit that it is reasonable that an Order for Possession should be made or given within the meaning of Section 15 (1) (L) of the Control of Rent Ordinance (Cap. 242) and state that alternative accommodation is available to the Defendant at No.6, Gilstead Road where she has been living for many years.

30

13. Furthermore, the tenancy at will or from month to month was terminated by a Notice to

Quit in writing dated the 23rd February 1961 sent by the Plaintiffs to the Defendant.

In the High Court of Singapore

14. In the premises the Defendant is not entitled to the protection of the Control of Rent Ordinance in respect of premises erected before the 7th September, 1947 or at all.

—
No. 2

Further Amended Statement of Claim Re-dated 12th February 1964

(contd)

The Plaintiffs claim:-

10

- (i) Possession of the said land and buildings erected thereon.
- (ii) Damages for breach of covenants.
- (iii) Mesne profits from 1st of April, 1961 to Judgment or possession.
- (iv) Costs.
- (v) Such further and other relief as may be just.

DATED this 30th day of November, 1961.

RE-DATED this 21st day of November, 1963.

RE-DATED this 12th day of February, 1964.

20

SD. DONALDSON & BURKINSHAW
Solicitors for the Plaintiffs

To the above named Defendant,

And to her Solicitors, Messrs. Drew & Napier, Singapore.

Amended as underlined in red ink pursuant to Order of Court dated the 11th day of November 1963.

Dated this 21st day of November 1963.

SD. T.C. CHENG

Registrar

In the High Court of Singapore

Further Amended as underlined in blue ink pursuant to Order of Court dated the 10th day of February, 1964.

No. 2

SD.. T. C. CHENG

Further Amended Statement of Claim Re-dated 12th February 1964

Registrar

(contd)

No. 3

NO. 3

Further and Better Particulars of Statement of Claim 17th February 1962

FURTHER AND BETTER PARTICULARS OF STATEMENT OF CLAIM

delivered pursuant to a letter from Messrs. Drew & Napier dated the 4th January, 1962

10

1. The undermentioned unauthorised buildings have come to the notice of the Plaintiffs when they received Notices from the Rural Board. In many cases these Notices were followed by Summonses which in turn were followed by Mandatory Orders and the Schedule below gives full details of these documents

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2. With regard to the request for particulars as to when the Plaintiffs became aware that the buildings were assigned or sub-leased our clients object to disclose at this stage evidence in support of their allegations except to say that the assignment or sub-letting occurred during the currency of the Defendant's Lease.

NOTE. Schedule above referred to is not reproduced herein.

30

11.

NO. 4

FURTHER AND BETTER PARTICULARS
OF STATEMENT OF CLAIM

pursuant to Order of Court made
herein on Friday, the 16th
March, 1962.

10 With regard to the particulars demanded
under Paragraph 9 the Plaintiffs do not know
and are unable to say when or to whom the
Defendant assigned, sub-leased or parted
with possession of the said land.

Dated this 21st day of March, 1962.

SD. DONALDSON & BURKINSHAW

Solicitors for the Plaintiffs

To the above named Defendant,

And to her Solicitors, Messrs. Drew & Napier,
Singapore.

In the High
Court of
Singapore

No. 4

Further and
Better
Particulars
of Statement
of Claim
21st March
1962

NO. 5

AMENDED DEFENCE AND COUNTERCLAIM
dated 11th March 1964

20 1. The Defendant denies that the
Plaintiffs are entitled to possession of the
land referred to in paragraph 1 of the
Statement of Claim, and claims the
protection of the Control of Rent Ordinance
(Chapter 242).

30 2. As to paragraph 2 of the Statement of
Claim, the Defendant admits that an
Indenture of Lease dated the 28th September,
1953 was entered into between the then
Trustees of the Estate of Syed Ahmed bin
Abdulrahman Alsagoff deceased and the
Defendant as alleged, but the Defendant says
that it was agreed by the said Trustees and

No. 5

Amended
Defence and
Counterclaim
11th March
1964

No. 5
 Amended
 Defence and
 Counterclaim
 11th March
 1964
 (contd)

the Defendant in correspondence passing between their respective solicitors that the monthly rental of \$1,300.00 would be subject to the said Trustees obtaining the approval of the Rent Conciliation Board. In breach of the said agreement the said approval was not obtained by the said Trustees, and the aforesaid correspondence will be referred to at the trial of this action for its full terms and effect.

10

3. Paragraphs 3 to 6 (inclusive) of the Statement of Claim are admitted.

4. As to paragraph 7 of the Statement of Claim the Defendant says that at a meeting held on the 24th April, 1958, it was agreed by the then Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased, and the Defendant, by her Attorney, Mirza Ali Akbar Reshty, that the Defendant would remain in possession of the demised land as a monthly tenant at a rental of \$1,400.00 subject to the approval of the Rent Conciliation Board. This agreement was confirmed by a letter dated the 24th April, 1958 from the said Trustees to the Defendant's solicitor, and this letter will be referred to at the trial of this action for its full terms and effect. In breach of the aforesaid agreement, the approval of the Rent Conciliation Board was not obtained by the said Trustees.

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5. The Defendant admits that the covenants set out in paragraph 8 of the Statement of Claim are among the Lessee's covenants in the Indenture of Lease dated the 28th September, 1953, which expired on the 31st March, 1958.

30

6. The Defendant denies that she committed the breaches of covenant referred to in paragraph 9 (a), (b) and (c) of the Statement of Claim or at all, and the Defendant further denies that she is liable to pay the Plaintiffs the sum of \$1,166.00 or any sum as special damages.

40

7. If the Defendant committed the aforesaid breaches, which is denied, the Plaintiffs with

full knowledge whereof acquiesced thereto and accepted rent from the Defendant thereby waiving the alleged breaches.

No. 5

Amended
Defence and
Counterclaim
11th March
1964

8. In the alternative, by reason of the acceptance of rent as aforesaid from the Defendant, the Plaintiffs impliedly released the Defendant from the covenants referred to in paragraph 8 of the Statement of Claim.

(contd)

10 8A. The Defendant makes no admissions in regard to the matters set out in paragraph 9(d) of the further amended Statement of Claim and the particulars thereunder. If the Plaintiffs were prosecuted 38 times or at all, which is not admitted, the Defendant says that the prosecutions do not constitute nor are they a consequence of breaches of covenants on the part of the Defendant.

20 8B., If the Defendant failed to supply the Plaintiffs with particulars of occupancy, which is not admitted, the Defendant denies that the furnishing of such particulars was an obligation of the tenancy, as alleged under paragraph 9A of the Statement of Claim, and that the Defendant was in breach thereof.

9. Paragraph 10 of the Statement of Claim is admitted.

30 10. Paragraph 11, 12, 13 and 14 of the Statement of Claim are denied, and the Defendant denies that the Plaintiffs are entitled to the relief claimed under Paragraph 14 of the Statement of Claim or at all.

40 10A. As to Paragraph 11 (a) of the Statement of Claim, the Defendant says that the rent recovered by her in respect of buildings constructed (including buildings demolished and reconstructed) since the 7th day of September 1947 approach but do not on average exceed \$3000/- per month. The Defendant denies that any part of the monthly sum so paid to her is in respect of vacant land.

10B. The Defendant denies that she has received from her sub-tenants of premises built

No. 5
Amended
Defence and
Counterclaim
11th March
1964

(contd)

or completed before the month of September, 1947 more than 110% of the rent the Defendant pays to the Plaintiffs, as alleged in Paragraph 12 of the further Amended Statement of Claim.

10C. It is admitted that the Defendant has lived and continues to live at No.6 Gilstead Road, Singapore but the Defendant states that Section 15 (1) (1) of the Control of Rent Ordinance is of no application as the Defendant never has resided on the demised land and it was never demised to her for the purpose of her residing thereon.

10

11. Save as hereinbefore expressly admitted the Defendant denies each and every allegation of fact in the Statement of Claim as if the same were set forth seriatim and specifically traversed.

COUNTERCLAIM

1. By an Indenture of Lease dated the 7th day of July, 1927, between William Joseph Mayson and Mirza Mohamed Ali Namazia, the then Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased, of the one part the land described in the said Indenture, being part of the land described in Paragraph 1 of the Statement of Claim, was demised to Mohamed Aga Reshty, the husband of the Defendant, of the other part, for a period of five years from the 1st day of July, 1927, at a monthly rental of \$250.00.

20

30

2. By an Indenture of Lease dated the 17th day of April, 1936, between the said William Joseph Mayson and Syed Abdul Hussain Shirazee, the then Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased, of the one part, the land described in the said Indenture, being the land described in Paragraph 1 of the Statement of Claim, was demised to the said Mohamed Aga Reshty, of the other part, for a period of 5 years from the 1st day of March, 1935 at a monthly rental of \$650.00, until the said Mohamed Aga Reshty

40

shall have obtained permission to use the buildings erected on the demised land for the purpose of a market, and thereafter at a monthly rental of \$750.00.

No. 5

Amended
Defence and
Counterclaim
11th March
1964

(contd)

10

3. By a supplemental Indenture of Lease dated the 12th day of November, 1938, the said William Joseph Mayson and the said Syed Abdul Hussain Shirazee demised unto the said Mohamed Aga Reshty the land and premises described in the said supplemental Indenture, being the land described in Paragraph 1 of the Statement of Claim from the 1st day of August, 1938 for a period of five years at a monthly rental of \$750.00.

4. In the premises, the standard rent of the said land and premises, within the meaning of the Control of Rent Ordinance (Chapter 242), is \$750.00 per month.

20

5. The Defendant says that the Plaintiffs have, contrary to the provisions of Section 3 (1) of the said Ordinance, received or recovered rent in excess of the aforesaid standard rent as follows:

PARTICULARS

1.4. 1947	to	31.3.1952	\$1,200/-	per month
1.4.1952	to	31.3.1958	\$1,300/-	per month
1.4. 1958	to	31.12.1961	\$1,400/-	per month

Excess rent collected 1.4.1947 - 31.3.1952
(60 months at \$450/- per month) \$27,000.00

30

Excess rents collected 1.4.1952 -
31.3.1958 (72 months @ \$550/-
per month) \$39,600.00

Excess rent collected 1.4.1958 -
31.12.1961 (45 months @ \$650/-
per month) \$29,250.00

\$95,850.00

No. 5
Amended
Defence and
Counterclaim
11th March
1964

6. In the alternative, the Defendant repeats Paragraph 2 and 4 of the Defence and claims damages for breach of the agreements referred to therein.

And the Defendant counterclaims:-

- (i) the said sum of \$95,850.00;
- (ii) the difference between the sum received by the Plaintiffs as rent for the demised land and the aforesaid standard rent for the period from the 1st day of January, 1962 until judgment or payment; 10
- (iii) in the alternative, damages under Paragraph 6 hereof;
- (iv) costs.

Delivered the 7th day of May, 1962

Amended as underlined in red ink this 11th day of March, 1964, pursuant to the Order herein dated the 10th day of February, 1964. 20

Sd. DREW & NAPIER

Solicitors for the Defendants

No. 6

NO. 6

Reply and
Defence to
Counter-
Claim
6th July
1962

REPLY AND DEFENCE TO COUNTER-CLAIM
dated 6th July 1962

REPLY

1. The Plaintiffs join issue with the Defendant on her Defence.
2. In further answer to paragraph 2 of the

In the High
Court of
Singapore

—
No. 6

Reply and
Defence to
Counter-
Claim
6th July
1962

10 Counterclaim, the Plaintiffs deny that it was agreed by the Trustees that the monthly rental of \$1,300/- would be subject to the Trustees obtaining the approval of the Rent Conciliation Board. If there was such an Agreement which is denied, the Plaintiffs say that the Defendant has suffered no damage by the failure to obtain the approval of the Rent Conciliation Board because large numbers of houses on the property were houses constructed after the 7th day of September, 1947 and were not subject to the Control of Rent Ordinance and, in any event, the Defendant did not supply the Plaintiffs with sufficient particulars of the premises subject to the Control of Rent Ordinance to allow the Plaintiffs to make the necessary application to the Rent Conciliation Board.

20 3. In further answer to paragraph 4 of the Defence the Plaintiffs say that it was agreed that the Defendant would remain in possession of the demised land at a monthly rent of \$1,400/- subject to the approval of the Rent Conciliation Board. However, it was also agreed that the Plaintiffs would supply a list of premises which had been constructed before 1947. Without this list it was impossible for the Plaintiffs to apply to the Rent Conciliation Board because a large number of the houses on this property were built after 30 1947. The Plaintiffs say that no apportionment of rent was made between houses subject to the Control of Rent Ordinance and those which were not and, in the circumstances, the Plaintiffs deny that more than the standard rent has ever been charged for premises subject to the Control of Rent Ordinance.

DEFENCE TO COUNTERCLAIM

40 1. The Plaintiffs admit paragraphs 1, 2 and 3 of the Counterclaim. The Plaintiffs also admit that those premises constructed on the property before the 7th September, 1947 have a standard rent of \$750/- per month. However, the Plaintiffs say that since the 7th September, 1947 a very large number of premises have been constructed on the said land

In the High Court of Singapore

No. 6

Reply and Defence to Counterclaim
6th July 1962

(contd)

and that the total rent for the premises referred to in the particulars to paragraph 5 of the Counterclaim are not rents which were charged for controlled premises alone. These rents were charged for all the premises on the land including uncontrolled premises. There was no apportionment of the said rent between premises subject to the Control of Rent Ordinance and those not subject to this Ordinance. In the premises the Plaintiffs deny that any excess rent has been received.

10

2. Further and in the alternative, if there has been any excess rent received, which is denied, the Plaintiffs say that any claims for excess rents collected before the 7th day of May, 1956, are barred by the Limitation Ordinance.

Therefore, the Plaintiffs pray that the Counterclaim should be dismissed with costs.

Dated this 6th day of July, 1962.

20

SD: DONALDSON & BURKINSHAW

Solicitors for the Plaintiffs

To the above named Defendant,

And to her Solicitors,

Messrs. Drew & Napier.

No. 7

NO. 7

Further and Better Particulars of Defence
16th October 1962

FURTHER AND BETTER PARTICULARS OF THE DEFENCE
dated 16th October, 1962

herein supplied pursuant to Plaintiffs' solicitors' letter of the 4th July, 1962, to the Defendant's solicitors

30

Under Paragraph 2

The agreement referred to is contained in the following correspondence;

- 12.5.1952 Letter Defendant's solicitors to Plaintiffs' solicitors.
- 14.5.1952 Letter Plaintiffs' solicitors to Defendant's solicitors.
- 30.5.1952 Letter Defendant's solicitors to Plaintiffs' solicitors.

In the High Court of Singapore

—
No. 7

Further and Better Particulars of Defence
16th October 1962

10 Delivered the 16th day of October, 1962.

(contd)

SD. DREW & NAPIER

Solicitors for the Defendant.

—————
NO. 8

COURT NOTES OF EVIDENCE

CHOOH SINGH. J.

No. 8

Court Notes of Evidence
Choor Singh. J.
18th March 1964

Wednesday, 18th March 1964

Duff for Plaintiffs

Grimberg for Defendant

Grimberg amends by consent para.10B of Amended Defence and Counterclaim.

20

Duff opens.

Agreed bundle of correspondence read and put in marked A.B.1.

Bundle of agreed documents put in and marked A.B.2.

Bundle of agreed receipts put in and marked A.B.3.

In the High
Court of
Singapore

Duff applies under Order 30 Rule 24
to adopt defendant's answers to
interrogatories as pleadings.
Grimberg has no objection..

No. 8 Application granted.

Court Notes
of Evidence
Choor Singh.J.
18th March
1964

Adjourned to 19.3.64.

Sd. CHOOR SINGH

(contd)

Plaintiff's
evidence

Thursday, 19th March 1964

Hearing resumed in Court

Syed Ahmed
bin Alwee
Al-Junied
(Examination)
19th March
1964

Parties as before.

10

Plaintiff's Evidence.

P.W.1 - Syed Ahmed bin Alwee Al-Junied.
Affirmed.

I live at 520-K Jalan Ladang, off Jalan
Eunos, Singapore, 14.

I am one of the plaintiffs. I see these
two documents. They were served on me. One
is Rural Board notice No. 13827 and the other
is similar notice No.13831 (Notices marked
exhibits P.1 and P.2). I did not know the
existence of these houses till I received
these notices.

20

I see these documents. They are summons
served on me. (Two Summons marked exhibits
P.3 and P.4).

I produce another bundle of summons served
on me. (Bundle of 29 summonses marked Ex. P.5).

(Cross-
examination)
19th March
1964

Xxd. by Grimberg

Q. P.1 and P.2 were received in March 1961?

A. They are dated 4th and 15th March
respectively.

30

Xxd. P.W.1 (contd.)

In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence
Choor Singh.J.

Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross-
examination)
19th March
1964

(contd)

Q. On those dates, you had already served the Notice to Quit on the defendant?

A. Yes.

Q. When you were served with P.3 and P.4 you had already issued your writ against defendant?

A. Yes.

10

Q. The other 29 summonses - earliest is dated July 1961 and latest April 1963. So all were served on you well after the present proceedings were instituted?

A. Yes.

Q. What did you do when P.1 and P.2 were served?

A. I went to defendant's office and saw her employee. I found the buildings were on defendant's land. I handed the notices to our lawyers.

20

Q. You have been trustee for a long time?

A. Yes.

Q. Are you familiar with the lease?

A. Yes.

Q. Do you know that under this lease you are entitled to go on the land and inspect it.

A. Yes.

Q. When you received these notices did you go and inspect the land?

A. No.

30

Q. Why not?

A. I was satisfied the unauthorised buildings were on the land.

In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence
Choor Singh.J.

Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross-
examination)
19th March
1964

(contd)

Xxd. P.W.1 (contd)

Q. Why did you not go and satisfy yourself that some unauthorised building was on the land?

My solicitors would deal with the matter.

Q. Invariably you pleaded guilty?

A. I was advised to do that. Under the law I was deemed to have erected the buildings.

Q. When did you become a trustee?

10

A. In May 1941.

Q. Since 1941, how many times have you been on the land to inspect it?

A. Quite a number of times, especially during Japanese occupation.

Q. Between 1945 and now?

A. Quite often.

Q. When was last time?

A. About a month ago.

Q. How many people would you say live on land leased to defendant?

20

A. About 15,000 or more.

Q. You remember letter (26) in agreed bundle?

A. Yes.

Q. Before that originating summons, you approved hundreds of new constructions?

A. Quite a lot.

Q. You rarely refused?

A. That was so until the Order of Court.

Xrd. of P.W.1 (contd)

In the High
Court of
Singapore

No. 8

Court Notes
of Evidence
Choor Singh.J.

Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross-
examination)
19th March
1964

(contd)

Q. You are relying on Statement of Claim on 16 buildings allegedly put up without your consent?

A. Yes.

Q. All notices regarding them are dated 1959?

A. Yes.

Q. And yet you continued to accept rent from defendant and give rent receipts to defendant without protest?

10

A. The question of receiving rents from defendant was discussed with our lawyers and we were advised we could receive without prejudice.

Q. Receipts for 1959 and 1960 are not marked without prejudice?

A. Yes. We marked them without prejudice after notice to quit.

Q. You don't say that defendant herself or her son erected these buildings?

20

A. They were erected by the sub-tenants.

Q. Are you calling these sub-tenants?

A. No.

Q. Have you been to any of these 16 premises and asked the occupants whether defendant gave them permission to erect?

A. No.

Q. Did it occur to you, that by pleading guilty, you would be encouraging the Building Surveyor to prosecute you instead of the actual builder?

30

A. I was advised I had no defence.

In the
High Court
of
Singapore

Xxd. P.W.1 (contd)

—

No. 8
Court Notes
of Evidence
Choor Singh.J.

Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross-
examination)
19th March
1964

(contd)

Q. 754-J off Airport Road. You pleaded guilty?

A. Yes.

Q. Would it surprise you to hear that the tenant had a permit from Building Surveyor's department to erect that building. See this permit (D.1)?

A. I was told by the Building Surveyor that the building erected was bigger than one authorised by the permit. 10

Q. Look at No. 6 on your list?

A. Yes.

Q. The tenant of that house had a certificate from Secretary, Rural Board, authorising that building?

A. I was not aware.

Q. If you had bothered to find out, you would have discovered that many of the sub-tenants had applied for permission to build from Rural Board? 20

A. It is not possible to find out from tenants. They don't tell anything.

Q. Since 1927 no member of the Reshty family has lived on the land?

A. Yes.

Q. It was leased to Reshty as an investment?

A. Yes.

Q. There have been sub-tenants right from 1927?

A. Yes. 30

Q. And the number of sub-tenants grew?

A. Yes.

Xxd. P.W.1 (contd)

In the High
Court of
Singapore

Q. You did not protest?

A. There was no reason to protest.

Q. Between 1953 and 1958 the number of sub-tenants continued to grow?

No. 8

A. Yes.

Court Notes
of Evidence
Choor Singh.J.

Q. You did not protest?

Plaintiff's
evidence

A. No.

Syed Ahmed
bin Alwee
Al-Junied

10

Q. Mr. Reshty Jr. has been administering the land for his mother since death of his father?

(Cross-
examination)
19th March
1964

A. Yes.

A. Reshty has continued to acquire sub-tenants and you were aware of it and you allowed it?

(contd)

A. Yes. We were aware of it.

Q. You continued to accept rents and give receipts?

A. Yes.

20

Q. At end of 1958 when lease expired, there was a meeting in office of Mr. Stewart which you attended?

A. Yes.

Q. Reshty Jr. and Dr. Withers-Payne attended?

A. Yes.

Q. At this meeting it was decided defendant should continue occupation of land and pay \$1,400 as rent?

A. Yes.

30

Q. Previously she paid \$1,300?

A. Yes.

In the High
Court of
Singapore

Xxd. P.W.1 (contd)

No. 8
Court Notes
of Evidence
Choor Singh.J.
Plaintiff's
evidence
Syed Ahmed
Bin Alwee
Al-Junied
(Cross-
examination)
19th March
1964
(contd)

Q. Minutes of that meeting appear at page 31 of Agreed Bundle?

A. Yes.

Q. At that date you were aware the land was crowded with sub-tenants, 2,000 of them in all?

A. Not crowded, but there were many sub-tenants.

Q. I suggest to you by so doing you were overlooking the covenant in lease that no sub-letting was to be allowed? 10

A. We knew that land was rented to squatters who paid rent to defendant and that was her income. I knew that.

Q. There are numerous beneficiaries of estate of which you are trustee?

A. Yes, nearly a hundred.

Q. Has time for distribution come?

A. Yes - 1961 was year of distribution.

Q. The beneficiaries are constantly pressing you for distribution? 20

A. Yes.

Q. Your anxiety to obtain possession of this land is for that reason and not because defendant is in breach of any covenant?

A. The beneficiaries drew our attention to the fact that defendant had committed breaches of the lease. This was two years before we served notice to quit.

Q. So you allowed defendant two years more? 30

A. We were advised by our legal advisers that the land was caught by Control of Rent Ordinance.

Xrd. of P.W.1 (contd)

In the High
Court of
Singapore

Q. Do you know that Ordinance provides that a landlord cannot recover from his tenant more than the standard rent?

A. That is a legal question.

Q. At all times prior to these proceedings it was considered by the trustees and their legal advisers that in order for rent to be increased it was necessary to obtain the sanction of the Rent Conciliation Board?

A. Yes.

Q. Look at A.B.2 and A.B.3?

A. Yes.

Q. The sanction of the Rent Conciliation Board was never obtained?

A. I don't know.

Grimberg: My learned friend will concede that.

Duff: We concede that.

Q. That was position before lease was granted?

A. Yes.

Q. In 1958 you agreed to allow defendant to remain as tenant subject to increase of rent to \$1,400 per mensun?

A. Yes.

Q. Again no application was ever made for increase of rent from \$1,300 to \$1,400?

A. Not to my knowledge.

Duff: We concede that.

Q. Have a look at A.B.34 and A.B.35?

A. Yes.

Q. Look at A.B.37.

A. Yes.

No. 8
Court Notes
of Evidence
Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross-
examination)
19th March
1964

(contd)

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In the High
Court of
Singapore

No. 8

Court Notes
of Evidence
Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross-
examination)
19th March
1964

(contd)

Xxd. P.W.1 (contd.)

Q. It is written by a trustee?

A. Yes.

Q. It is information the beneficiaries want?

A. Yes.

Q. Have a look at A.B.81?

A. Yes.

Q. Again you wanted the information to
distribute the estate?

A. Yes.

Q. You have been collecting \$1,400 per
mensem without ever having applied to
the Rent Conciliation Board?

10

A. It is clear.

Q. Suppose defendant had given up possession
at end of March 1961, had you any records
at all to collect rent from the 2,000
sub-tenants?

A. No.

Q. How would you have gone about it?

A. We had discussed the matter and would have
prepared some sort of scheme.

20

Q. You did not know names of even 25 sub-
tenants?

A. Even less than that.

Q. Nor did you know what rent the 2,000 sub-
tenants paid?

A. Yes. We could have asked them to
produce old rent receipts.

A. How long would it have taken to prepare
your own rent rolls?

30

A. I would not like to guess.

Xxd. P.W.1 (contd)

In the High
Court of
Singapore

Q. Do you know that at this moment no less than \$23,000 is owed in arrears of rent?

A. I know it is difficult to collect rent. I am not surprised.

Q. Most of the sub-tenants are very poor people?

A. I am not in touch with them. It is difficult to say.

10

Q. It has been suggested that by law defendant is limited to collect \$1,540.00 p.m. when she pays only \$1,400?

A. Yes.

Q. You know Mr. Reshty is employed full-time in the administration of this land?

A. I don't know.

Q. He is paid \$550 per month?

A. I don't know.

20

Q. And two full-time rent collectors are employed?

A. I believe so.

Q. Their joint salaries amount to \$360 per month?

A. May be.

Q. In addition there is a part-time clerk to write out receipts?

A. I don't know that.

30

Q. So that the disbursement alone in salaries amount to \$1,010? Then there is income tax, lawyers fees etc?

A. Yes.

—
No. 8

Court Notes
of Evidence

Plaintiff's
evidence

Syed Ahmed
bin Alwee
Al-Junied

(Cross
examination)
19th March
1964

(contd)

In the High
Court of
Singapore

Xxd. P.W.1 (contd)

Q. You agreed just now that this land was let as an investment?

A. Yes.

No. 8
Court Notes
of Evidence
Plaintiff's
evidence

Q. You are also lessor of another land leased to Lim Beng Teck?

A. Yes.

Q. What is this area?

A. A little more than 200 acres.

Syed Ahmed
bin Alwee
Al-Junied
(Cross-
examination)
19th March
1964

Q. Has his lease expired?

A. Yes.

10

Q. Are you taking any steps to dispossess him?

A. Yes.

Q. The illegal structures on his land are more than on defendant's land?

A. No. I don't agree.

Q. Defendant's land is a difficult piece of land to administer?

A. Yes.

Q. It is some 620 acres?

A. 554 acres.

20

Q. With 15,000 people on it?

A. Yes.

Q. It presents many difficult problems?

A. It depends on the man concerned.

Q. By their very nature these illegal buildings can go up practically in one night?

A. Yes.

By me Sgd. CHOOR SINGH

P.W.2 - Dato Syed Ahmad bin Mohamed Alsagoff, affirmed.

In the High Court of Singapore

I live at 20 Palm Road, Singapore. I am one of the plaintiffs in this action.

—
No. 8

I see exhibits P. 1 and P. 2. I was informed about them by my co-trustee. I did not know about the existence of these buildings before being informed of these notices.

Court Notes of Evidence Plaintiff's evidence

10

Xxd. by Grimberg.

Dato Syed Ahmad bin Mohamed Alsagoff

Q. What did you do when you were informed of these notices?

(Examination)
19th March
1964

A. I always go to our lawyers.

Q. Did you go to the land?

(Cross-examination)

A. No. I am unwell. I have had a heart attack.

Q. Have you been to Mr. Reshty's office about 4 years ago and asked him to pay a lawyer's bill?

20

A. Never.

Q. Look at A.B. 72?

A. Yes.

Q. And A.B. 73.

A. Yes.

Q. Is that not true?

A. It is not true at all. I have never talked to him about this lawyer's bill.

By me

SGD. CHOOR SINGH

In the High
Court of
Singapore

P.W.3 - Syed Mohd. bin Ali Alsagoff,
affirmed.

I live at 16, Nassim Road, Singapore.
I am one of the plaintiffs in this action.

No. 8

Court Notes
of Evidence

I see exhibits P.1 and P.2. I never
knew of any illegal buildings except when I am
shown a notice.

Syed Mohd
bin Ali
Alsagoff

Xcd. by Grimberg.

(Examination)
19th March
1964

Q. You are very anxious to get possession of
this land?

10

A. Yes.

(Cross-
examination)

Q. Is it because the estate has to be
distributed?

A. Yes. And also the defendant is
collecting a fantastic sum. He is
exploiting our estate. Is he going to
be a permanent tenant?

Q. These rent receipts are for 1959 and 1960?

A. Yes.

Q. They are clear receipts?

20

A. Yes.

Q. The notice to quit was issued on 28.9.60.
It is A.B. 83?

A. Yes.

Q. Now look at 86?

A. Yes.

Q. It shows two things.

(1) Your solicitors issued another
notice to quit.

(2) Reason why you wanted possession was
to distribute the estate of the
deceased.

30

Xxd. P.W. 3 (contd)

A. We wanted possession to collect rent ourselves.

Q. Now look at page 96 of A.B.1?

A. Yes.

Q. There is a third notice to quit?

A. Yes.

Q. Before this notice you had already issued a writ?

A. Yes. There was some mistake. An amendment had to be made.

10

By me

Sgd. CHOOR SINGH

P.W. 4 - George Ramatunga, affirmed.

I live at 58 Winsor Park Road, Singapore. I am employed in office of Chief Building Surveyor for last 20 years. My duties are to inspect unauthorised buildings, prepare sketch plans etc. I am responsible for issuing P.1 and P.2 Both bear my signature. They are in connection with unauthorised buildings at Airport Road. I served these notices on P.W.1. I produce a plan showing situation of building mentioned in Ex. P.1 (plan marked Ex. P.1A). This plan shows situation of building mentioned in Ex. P.2 (plan marked Ex.P.2A). I served these notices on P.W. 1 because he is trustee of the estate of Syed Ahmad bin Abdulrahman Alsagoff deceased. I produce plan of the whole estate (marked Ex.P.6.). I have marked with a cross the spot where these two illegal buildings are. I see these 29 summonses (Ex.P.5). Some of them were served by me. I can indicate on P.6 the spot where the building referred to in each summons is situated. I have written the

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In the High Court of Singapore

—
No. 8

Court Notes of Evidence

Plaintiff's evidence

Syed Mohd bin Ali Alsagoff

(Cross-examination)
19th March
1964

(contd)

Plaintiff's evidence

George Ramatunga

(Examination)
19th March
1964

In the High Court of Singapore

summons number at the site of the house on the plan (P.6).

No. 8

By me

Court Notes of Evidence

Sgd. CHOOR SINGH

Plaintiff's evidence

Friday, 20th March 1964

George Ramatunga (Examination) 19th March 1964

Duff: Mr. Grimberg is ill and unable to attend Court today. He is expected to be well by Monday. May this case be adjourned till Monday at 10.30 a.m.

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(contd)

Adjourned to Monday, 23rd at 10.30 a.m.

Sgd. CHOOR SINGH

Plaintiff's evidence

Monday, 23rd March 1964

George Ramatunga (Examination)

Hearing resumed in Court.

Parties as before.

(contd)

P.W. 4 - Ramatunga on former oath.

23rd March 1964

I have now marked on this plan (Ex. P.6) the summons number as the site of the building in relation to which the summons was issued. I am personally concerned with summons Nos. 267/61, 311/61, 472/61, 476/61, 547/61, 218/62, 724/61 and 187/62. I applied for these summons after inspecting the buildings concerned, and I served these summons.

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(Cross-examination) 23rd March 1964

Xxd. by Grimberg.

Q. Is it not true, that your department finds this sort of building difficult to control?

A. We take action when we discover it.

Q. But it is difficult to control?

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A. Yes.

In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence

Plaintiff's
evidence

George
Ramatunga

(Cross-
examination)
23rd March
1964

(contd)

Q. Some of these buildings go up in a short time?

A. Yes. A few days.

Q. You have invariably prosecuted the plaintiffs and not the actual culprits?

A. Yes.

Q. It is open to you to prosecute the actual culprits?

A. No.

10 Q. Have a look at A.B.16?

A. Yes.

Q. You are fairly familiar with the whole area?

A. Not the whole area.

Q. How many houses do you think exist on the land?

A. I can't say.

Q. Evidence will be given that there are 2,100 tenants?

20 A. I can't say.

Q. Would it run into thousands?

A. Yes.

Q. And yet between 1961 and 1963 your department took out only 38 summons?

A. No. We took out more than that. I think more than 38.

30 Q. I would suggest that when you consider over the years only 38 summons have been served when the number of houses run into thousands over an area of 500 acres, it is not very bad? the situation is not very bad?

In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence
Plaintiff's
evidence

George
Ramatunga

(Cross-
examination)
23rd March
1964

(contd)

- A. There have been more than 38 summons.
- Q. Is it not a fact that applications to your department for repair and re-erect a building take a long time?
- A. No. About a month or so.
- Q. While they are awaiting your approval, they go ahead with the work?
- A. It happens sometimes.
- Q. Look at notices P.1 and P.2?
- A. Yes.
- Q. You caused them to be issued?
- A. Yes.
- Q. Subsequently you caused the two summons relating to these notices to be issued?
- A. Yes.
- Q. Both summons allege erection of new buildings?
- A. Yes.
- Q. My instructions are that they were not new buildings?
- A. When I first inspected, the buildings were under construction. I am not aware of any old building being there.
- Q. You observed those buildings for first time in March 1961?
- A. Yes.
- Q. When was the last time you visited that part prior to March 1961?
- A. I visited houses close to this site.

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In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence
Plaintiff's
evidence

George
Ramatunga

(Cross-
examination)
23rd March
1964

(contd)

Q. I suggest there were buildings on this site before?

A. There might have been.

Q. What you saw were repairs being carried out?

A. I saw totally new buildings going up. That is why I served notice for new buildings. Even if there was an old building, if it is completely demolished, and a new one constructed, we consider it a new building. In this case we have no records of any old building being there.

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Q. Have you got B.S.R. 14/61?

A. No.

Q. Look at this permit (marked D.3)?

A. Yes.

Q. A witness will say it was given to his mother and it relates to one of those two notices?

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A. Unless I see our file I can't say.

Q. Can you bring your file?

A. Yes.

By me

Sgd. CHOOR SINGH

In the High
Court of
Singapore

—
No. 8
Court Notes
of Evidence
Plaintiff's
evidence
Vernon
Francis
Brenan
(Examination)
23rd March
1964

P.W. 5 - Vernon Francis Brenan, s/s

I live at 43D Jalan Lumba Kuda, Johore Bahru. I am surveyor by profession. I have carried out an inspection survey of property between Airport Road and Changi Road. I have a tracing of the area comprised in this survey. I produce it now (marked Ex.P.7.). The object of this survey was to inspect the buildings between the external boundaries of the tracing Ex.P.7 to ascertain if each building was used for domestic or other purposes. I listed the numbers which appeared on the buildings in my field book and recorded for what purpose each building was used. I produce a summary of the entries in my field book (marked Ex.P.8). P.8 contains 49 pages. Pages 1 to 35 inclusive list the numbers in numerical order of the buildings used as domestic purposes and pages 36 to 49 list buildings used for non-domestic purposes.

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(Cross-
examination)

Xcd. by Grimberg

- Q. Does this list contain a record of every single structure?
- A. Not all. Fowl houses and pig sties are not listed.
- Q. How many houses are included in this list?
- A. I have not counted.
- Q. Would it run into thousands?
- A. Yes.
- Q. The area is heavily populated?
- A. Yes.
- Q. Were you aware that the vast majority of tenants pay ground rent as distinct from house rent?
- A. Not specifically but from experience I know such buildings pay ground rent.

30

Q. The area of each building is not demarcated?

In the High Court of Singapore

A. In some isolated cases it is but generally it is not.

Q. Generally speaking the area let to each tenant is not defined?

—
No. 8
Court Notes of Evidence
Vernon Francis Brennan

A. That is true.

Q. There are no marking or boundary stones?

(Cross-examination)
23rd March 1964

10 A. That is so.

Q. It is highly impracticable for this very large area to be split up between dwelling houses and non domestic houses?

(contd)

A. If there is no record of area let to each tenant, it would be impossible.

A. Some houses look newer than others?

A. Yes.

20 Q. In some way for same reason it would be difficult to ascertain the boundary between new houses and old houses?

A. It is not impossible. It would be possible to demarcate the area but it would be a monumental task.

By me

Sgd. CHOOR SINGH

Adjourned to 24.3.64 at 10.30 a.m.

In the High
Court of
Singapore

Tuesday, 24th March 1964.

Hearing resumed in Court

Parties as before.

No. 8

D.W. 1 - M. Ali Akbar Reshty affirmed.

Court Notes
of Evidence

Defendant's
Evidence

M. Ali Akbar
Reshty

(Examination)
24th March
1964

I live at 6 Gilstead Road, Singapore. I am the son of defendant. I am 48 years of age. I hold a full Power of Attorney from my mother the defendant which is current and unrevoked. My father Mhd. Aga Reshty died on 13.10.52. A lease in respect of land at Geyland Serai was first granted by the then trustees of the estate of Syed Abdulrahman Alsagoff in 1927. We were then living at 10 Klang Road. I was then a schoolboy. The period of that lease was five years. It made provision for the erection of a market by my father at his own expense which he did. In about two years the market was closed because the Municipality erected another market nearby. When the land was first let to my father it was all swamp. The site of the market was a pond eight feet deep. We had to fill it up. I left school in 1933. I joined my father and became associated with the administration of the land. Since 1933 I have been associated with this land. In 1933 we were living at 12 Balmoral Road. In 1933 there were 400 to 500 tenants. Most of them were farmers. They paid ground rent. The first lease expired in 1932 or 1933. Another lease was granted in 1936 commencing from 1st January 1935. This lease provided for rent of \$650 p.m. It was to be increased to \$750 when my father erected another market in the rural area. He did erect the second market. The cost of erecting the first market was \$15,000 and cost of second market \$18,000 to \$20,000. The two markets are standing today. They are on land leased to me. On 1.8.39 the rent we paid to the trustees was \$750,00 p.m. During the war my family and I left Singapore and left the land in the hands of B.A. Mallal who was co-attorney with me. My father returned in 1946. A fresh lease

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was granted in 1947. This lease has been lost. After the war we paid \$1,200 p.m. as rent to the trustees. After the 1947 lease expired negotiations began for a fresh lease in 1951 or beginning of 1952. It was agreed that father should pay \$1,300 p.m. as rent as from 1.4.52, subject to the approval of the Rent Conciliation Board. The lease was in the process of preparation when my father died on 13.10.52. Eventually a lease was granted to my mother at a rental of \$1,300 subject to the approval of the Rent Conciliation Board.

This lease was with effect from 1.4.53. When this lease expired I wrote and asked for renewal of the lease. A meeting was held. the three trustees, Dr. Withers Payne and I attended this meeting which was held at Mr. Stewart's office. It was agreed that I will continue in possession as a monthly tenant at a rent of \$1,400 p.m. subject to approval of the Rent Conciliation Board. To my knowledge no application has been made to the Rent Conciliation Board. It was agreed that they would not eject my mother before the end of December 1960. My mother received a notice to quit dated 26.9.60. I asked my solicitors to write to the trustees reminding them of their assurance. My lawyers received a reply sending a further notice to quit expiring at the end of December 1960. Proceedings were instituted against my mother in February 1961 but discontinued. A third notice to quit was served on my mother at end of February 1961.

Between 1927 to the present time there has been an increase of tenants. There are now roughly about 2,100. The majority pay ground rent but a few pay house rent, e.g. the occupiers of the two markets for which we pay assessment. The nature of the land has changed. There are more dwelling houses now than farmers. The farmers began to disappear during the war.

When we sub-letted to the sub-tenants, we never wrote to the trustees during 1953

In the High
Court of
Singapore

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No. 8

Court Notes
of Evidence

Defendant's
Evidence

M. Ali Akbar
Reshty

(Examination)
24th March
1964

(contd)

In the High
Court of
Singapore

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No. 8

Court Notes
of Evidence
Defendant's
Evidence

M. Ali Akbar
Reshty

(Examination)
24th March
1964

(contd)

to 1958. I received no protest from the trustees that we were sub-letting without their permission. The administration of this piece of land is a full-time job.. I am paid \$550 per month by my mother. There are two full-time rent collectors who assist me. Their names are Modh. Isqbal who gets \$200 per month and Abdul Aziz who gets \$160 per month. A part-time clerk named Mohd. Khan gets \$100 per month.

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Between 1953 and 1958 we acquired roughly about 200 new tenants.

Before 1958 if the tenant required to reconstruct his hut I used to get the Rural Board application form signed by a trustee for the sub-tenant. Sometimes I sent the application form under a covering letter to the trustees for their signature. The trustees authorised repairs but did not approve reconstruction. Between 1953 and 1958 many new buildings were put up with consent for the trustees. I used to take the application form and site plan to the trustees for their approval and signature. Early in 1958 reconstructions and new buildings ceased. After this it was just a question of repairs. After this tenants used to come to me for new buildings but I used to tell them that the trustees would not allow any new building to be put up. This is an example of an application for a new building. (Ex. D.12). It came back from trustees authorising repairs only. My mother and I never authorised or permitted anyone to erect a new building without the knowledge of the trustees. On 10.2.64 I showed Mr. Duff two new buildings. The building inspector Mr. George Ramatunga accompanied us. To my knowledge there were buildings at this site before 1961. The land in that area is let by me to Nam Yong Lim and Madam Lee Ah Moi. Madam Lee Ah Moi has been my tenant for 30 years. Nam Yong Lim's father was my tenant. The buildings now there are two blocks of houses and two blocks of barrack houses. I cannot say what buildings were there before. I have not let any vacant land to anyone since

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1953 for the purpose of erecting a building. It is not possible to tell where one tenant's land begins and ends. It is only possible if there is a fence. If a tenant changes his attap roof I would call it a reconstruction because it requires change of roof timbers. This is the most usual type of reconstructions.

In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence

Defendant's
Evidence

M. Ali Akbar
Reshty

(Examination)
24th March
1964

(contd)

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Until 14.3.63 I had an office on the land. This piece has been acquired by Government. Now I have a room now which I use as an office.

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It is not easy to collect rents on this land. Roughly about 30% of my tenants are in arrears. One tenant is owing 98 months rent. The range is between two months and 98 months. The range of rents I collect is from \$1.00 to \$22.50 per month. House rents are from \$4.20 to \$62.50. Only two tenants pay \$62.50. Then there is one \$25.00 p.m. All rents are payable in advance on 1st day of each month, but in practice only house rents are paid on time. I have sometimes to deliver notices threatening distress action. I have not distrained for rent since the war. I have to settle dispute about boundaries and right of way quarrels.

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I remember getting this letter (Ex. D.5). I did not reply and received Ex. D.6 and D.7. I wrote Ex. D.9 in reply. I did not supply the particulars they required because it was impossible to do so. They wanted measurements of the land occupied by each tenant. I then received Ex. D.10 and D.11. I went and saw Mr. Stewart and complained to him that it was impossible to supply particulars he required. I knew him quite well. He told me that if I could not supply the particular it was quite all right. I then received A.B. 81 and replied at A.B. 82. Shortly after that my mother received the first notice to quit.

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In the High
Court of
Singapore

Xxd. by Duff

—
No. 8

Court Notes
of Evidence

Defendant's
Evidence

M. Ali Akbar
Reshty

(Cross-
Examination)
24th March
1964

Q. Please look at A.B. 82 again?

A. Yes.

Q. What do you mean by "trying to sort things out"? You had no proper records?

A. We had proper records.

Q. You did not know the boundaries of each tenant?

A. Yes.

Q. You must have agreed with each tenant the land he was to occupy?

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A. No such agreement was made.

Q. Although you acquired hundreds of new tenants, you never let any specific area to them?

A. No.

Q. Did you ever visit the premises to see how much area they were getting?

A. Sometimes I did.

Q. You have let out the land. If you don't keep a record of what you let out, how would the trustees know?

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A. It is possible to find out by physical measurement of the site occupied.

Q. You really don't know?

A. That is so.

Q. The 200 new tenants you acquired went into 200 new houses?

A. No. They were mostly out houses occupied by new tenants.

30

- Q. The nature of the land has changed from farming land to dwelling houses?
- A. Yes.
- Q. Since the war a large number of dwelling houses have been built?
- A. Yes, with permission.
- Q. If a building has a roof taken off it is not demolished?
- A. Yes.
- 10 Q. If you say it is demolished it means it has been knocked down?
- A. Yes.
- Q. In your answers to interrogatories, buildings demolished are buildings knocked down and rebuilt?
- A. Yes.
- Q. Why did you not give the other information asked apart from measurement of the land e.g. name of tenant, amount of rent?
- 20 A. I was asked for all the particulars mentioned in the letter.
- Q. You did not want the trustees to know how much you were making?
- A. No. I showed my books to Mr. Phillips in 1956 or so.
- Q. You received notices of illegal erections?
- A. Yes.
- Q. What did you do?
- A. I used to go to the site with building inspectors and ask the tenant to comply with notice or demolish.

In the High Court of Singapore

—
No. 8

Court Notes of Evidence

Defendant's Evidence

M. Ali Akbar Reshty

(Cross-Examination)
24th March 1964

(contd)

In the High
Court of
Singapore

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No. 8

Court Notes
of Evidence
Defendant's
Evidence

M. Ali Akbar
Reshty

(Cross-
Examination)
24th March
1964

(contd)

Q. You did not know about the existence of new buildings until you were led and shown the illegal buildings?

A. Whenever I received a letter or notice about a house or houses without a number I could not identify it without a number.

Q. How could a building inspector observe new illegal erections whereas you the lessee could not?

A. The building inspector has only a few acres to look after. Besides that is his job. 10

Q. You paid the costs on one occasion and felt sympathy for the trustees?

A. Yes.

Q. Why don't you employ more people to look after the estate? You say the estate is too big for you to look after?

A. I am only an attorney.

Q. You agree the present staff is insufficient to look after the estate? 20

A. I can't say that.

Q. Is it not desirable to know that buildings are being put up without your knowledge and authority?

A. Yes.

Q. If you had more staff, you could check this illegal erection?

A. How many staff do you expect me to engage.

Q. Look at A.B. 35? 30

A. Yes.

Q. What happened to this list of houses you were preparing?

A. I have not seen this letter before.
I have no idea about para. 2.

In the High
Court of
Singapore

Rexxd.

I had some idea of the approximate area occupied by each tenant. I see A.B. 97. That is the first notice I received from Donaldson & Burkinshaw. The premises are not identified. A.B. 98 is second notice. Second item is not identified when I received notices. I went to premises if I could find them. I also wrote to the tenants. When I received A.B. 42 I went to the site. I saw the tenant, a lady. She had applied for a permit but before its approval she erected or reconstructed her house. She received approval later. Her house is still there. I see A.B. 56 referring to 3 unauthorised erections. I immediately wrote to the tenants. My letters are at A.B. 58 and 59.

No. 8
Court Notes
of Evidence
Defendant's
Evidence
M. Ali Akbar
Reshty
(Cross-
Examination)
24th March
1964
(contd)
(Re-
Examination)

In 1960 the defendant's expenses for administration of estate were \$15,669.95. She paid \$16,800 as rent in that year. She paid \$3,316.85 as assessment. She paid \$6,076.70 as income tax. This totals \$41,863.50. The total income was \$67,233.60 leaving a balance of \$25,370.10. Rental of new buildings is shown in para. 2 of Interrogatories as \$34,717.60. My mother has \$850 income per year from sources other than this land. I produce my ledger to support the figures I have given (Ledger is marked Ex. D.13).

Xxd. by Duff.

(Further
Cross-
Examination)

Q. D. 13 looks new. Has it been made up in the last few months?

A. No. These entries were made in 1960.

by me

Sgd. CHOOR SINGH

In the High
Court of
Singapore

D.W. 2 - Tay Mok Siew affirmed in
Hokkien.

No. 8
Court Notes
of Evidence
Defendant's
Evidence
Tay Mok
Siew
(Examination)
24th March
1964

I live at 8, Jalan Paya, Singapore. I am shop-keeper. My wife's name is Lee Ah Moey. I used to stay at 310-B Airport Road. At that time I had a shop opposite my residence. Its number was 288-M. I paid ground rent for that shop to the defendant. I paid \$1 p.m. There were a few houses behind that shop. There were six families living behind the shop. Two of them were my tenants. The other four were my relatives. The six families lived in six zinc houses all joined together. I would call them zinc roof single storey houses. They had no numbers. I removed from 310-B in 1960. I lived there four years before I moved out. It is not correct to say they were new houses built in March 1961. They were renovated by me about March 1961. I am still paying ground rent for those houses in name of my wife. I obtained permission to renovate those houses in 1961. This is the permit (D. 3) I am referring to. I obtained it from Ministry of National Development. I don't know if D. 3 refers to my houses. I do not know English. I approached defendant for permission to renovate my houses. He said he would give me permission subject to approval of Ministry of National Development. He asked me to approach Ministry of National Development. I changed the roof from attap to zinc and renewed the plank walls and extended the floor space. I had to demolish the old houses and then put up the new ones. The building now contains six separate dwellings for six families. The old building consisted of only two houses occupied by some six families.

Xxd. by Duff - nil.

by me

Sgd. CHOR SINGH

D.W. 3 - Nah Yong Lim affirmed in Teochew.

In the High Court of Singapore

—
No. 8

Court Notes of Evidence

Defendant's Evidence

Nah Yong Lim

(Examination)

24th March

1964

I live at 982 Paya Lebar Road, Singapore. I am a shopkeeper. I am tenant of piece of land on which two blocks of six dwelling houses at Airport Road are erected. The land was originally rented in name of my mother. Now I am the tenant. The two blocks of six houses were built 10 to 20 years ago when I was a small boy. It is not true that they were built in 1961. The houses were repaired in 1958 or 1959. My recollection is they were repaired in 1958 or 1959 and not in 1961. The roof which was attap was changed into zinc for half the roof. I also changed the attap. I also raised the walls. Some parts of the houses had to be demolished to carry out the repairs. No one gave me permission to carry out the repairs. I did not get permission of any Government department. Defendant gave me permission to carry out the repairs. I saw defendant and told him the houses were in disrepair. I asked him permission to repair the houses. He agreed. I did not give him any piece of paper. I asked him to give me permission to repair the houses, to change the attap and some of the beams and broken planks. I did ask his permission to reconstruct the houses. He gave me his verbal permission to totally reconstruct the houses. I asked him this permission some time in 1958. I did carry out a total reconstruction. I did it in 1958 or 1959.

Q. Do you remember seeing me in my office about two weeks ago?

A. Yes.

Q. Did you not tell me: "In 1958 we repaired the attap roof. We removed it and replaced it with zinc. The house is in fact six terrace houses. It is not true that we built the houses in 1959. I gave a form to Reshty and he gave it back to me after

In the High
Court of
Singapore

No. 8
Court Notes
of Evidence
Defendant's
Evidence
Nah Yong Lim
(Examination)
24th March
1964

(contd)

about a month. After getting the form
back I carried out the repairs?"

A. I cannot remember if I received any form.

Q. Do you remember handing him a form and
getting it back later?

A. Yes.

Q. After getting the form you carried out the
repairs. You made no mention of
reconstruction of the building?

A. I carried out reconstruction of the roof and
repairs of the house. 10

XXd. by Duff - nil

by me

Sgd. CHOOR SINGH

Defendant's case

Grimberg addresses Court

Duff replied

Judgment reserved.

Sgd. CHOOR SINGH

Saturday, 7th November 1964 20

Written Judgment delivered

Duff concedes that defendant is
entitled to deduct the costs of collection
of rents in the accounting for the mesne
profits. Grimberg submits that defendant is
also entitled to deduct the income tax paid
on the rents collected. Duff does not
concede this. I inform both that I am
prepared to hear further argument on the
question of income tax on a date to be
fixed by the Registrar. 30

Grimberg requests stay of execution pending appeal. Duff says he has instructions to oppose. Defendant is not living on the premises. Only the right to collect rents of sub-tenants is involved in the appeal. If she wins she can start collecting rents again.

Stay of execution is refused.

Sgd.

CHOOH SINGH

In the High
Court of
Singapore

—
No. 8

Court Notes
of Evidence

24th March
1964

(contd)

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NO. 9

JUDGMENT OF CHOOH SINGH. J.
dated 7th November 1964

No. 9

Judgment
Choor Singh. J.

7th November
1964

The plaintiffs' claim against the defendant is for recovery of possession of a piece of land situated in the district of Paya Lebar in Singapore together with all the buildings erected thereon and mesne profits from 1st April 1961.

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The facts are briefly these. The plaintiffs are the trustees of the estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased. The land in question forms part of the deceased's estate and comprises part of Lot 322, Lot 1-52, Lot 1-20, Lot 1-26 and Lot 1-47, Mukim 23. By a lease dated 28th September 1953 and made between the then trustees of the estate and the defendant the trustees demised the land to the defendant for a term of five years from 1st April 1953 at the monthly rent of \$1,300/-. The lease expired on 31st March 1958. The defendant remained on the demised land at the expiration of the lease and was accepted by the plaintiffs as a tenant from month to month as from 1st April 1958 at a monthly rent of \$1,400/-.

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In the High
Court of
Singapore

—
No. 9

Judgment
Choor Singh.J.

7th November
1964

(contd)

The demised land comprises an area of some 550 acres. There are about 2,100 sub-tenants on the land. They pay to the defendant ground rent ranging from \$1.00 to \$22.00. On the land occupied by them they have with the plaintiffs' assent erected temporary buildings at their own expense. Prior to March 1958 there were no restrictions against sub-letting of the land and the plaintiffs readily gave permission for the erection of temporary buildings by the sub-tenants. But in March 1958 the plaintiffs obtained an order of Court which forbade the erection of new temporary buildings on the land.

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The plaintiffs claim possession of the land on a number of grounds. I consider it unnecessary to deal with all the grounds, because in my opinion the plaintiffs clearly succeed on the third ground, namely, that the defendant has been receiving from the sub-tenants more than 110% of the rent which she herself pays to the plaintiffs. This ground is based on section 15 (1) (g) of the Control of Rent Ordinance (Chapter 242) which reads as follows:-

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"(g) where the tenant having sublet the premises or part thereof receives in respect of such sub-letting, rents (excluding any municipal services paid by the tenant) for any sublet part of the premises in excess of the recoverable rent for that part, or rents which exceed in the aggregate one hundred and ten per centum of the recoverable rent paid by the tenant himself including the apportioned rental or value of any part of the premises retained by the tenant or not sublet by him;"

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It was conceded by counsel for the defendant that the defendant does in fact

recover rent in excess of 110% of the rent she pays to the plaintiffs. Counsel for the defendant however submitted that section 15 (1) (g) of the Control of Rent Ordinance (hereinafter referred to as the Ordinance) has no application to this case. He argued that "premises" is the key word in paragraph (g) and the definition of "premises" appearing in section 2 of the Ordinance is governed by the expression "except where the context otherwise requires" appearing in the opening words of section 2. Counsel argued that the context of section 15 (1) (g) requires a definition of premises more limited than that given in section 2; that it clearly contemplates premises as being a building part of which is sublet by a tenant and part of which is retained by him for his own use; and that reference to municipal services in paragraph (g) lends colour to that view. Counsel asked, can the expression "premises" in the context of section 15 (1) (g) refer to 550 acres of land occupied by some 2,100 sub-tenants?

It was suggested that the test is, what mischief was section 15 (1) (g) enacted to prevent? Counsel contended that it was enacted to prevent a chief tenant of a building who keeps a room and rents the rest of the building by subdividing it into cubicles from charging rents for the cubicles which in the aggregate exceed 110% of the rent paid by the chief tenant. Counsel contended that the present case was on an entirely different footing and section 15 (1) (g) of the Ordinance had no application.

It was submitted further that the defendant's tenancy of the land in question was in the nature of a business; she employed staff, to wit, a manager and rent collectors to collect rent from the 2,100 sub-tenants; she paid \$12,120 per annum as wages to her staff; she paid \$3,000 per annum as assessment; she paid \$6,000

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per annum as income tax on the rents collected by her from the sub-tenants; and she paid the plaintiffs \$16,800 per annum as rent. And there remained about \$2,000 per mensem for her when all these payments had been made. It was submitted that the tenancy was in the nature of an investment for the defendant and she was carrying on the business of rent collecting and section 15 (1) (g) of the Ordinance did not apply to the land. 10

In my opinion, for the purposes of section 15 (1) (g) of the Ordinance, a piece of land which consists of two or more contiguous lots as in the present case and which forms the subject of a single letting and all buildings erected thereon should be considered together as a whole, and the fact that the land has a very large area or has numerous buildings on it does not take it out of the ambit of section 15 (1) (g). 20

There is support for this view in two local cases. In the Happy World Ltd. v. Estate & Trust Agencies (1927) Ltd., (1958) M.L.J. 155 the premises which were the subject matter of the litigation were used as an amusement park and the plaintiff company sought a declaration that the land on which the amusement park stood was premises within the meaning of the Ordinance. When the lease was entered into the land was vacant land. The plaintiff company had been formed for the purpose of carrying on the business of an amusement park. In pursuance of that object, the plaintiff company erected numerous buildings on the land. These buildings comprised restaurants, cinemas, stalls, a cabaret, a stadium and other structures such as are commonly found in amusement parks. They were erected with the permission of the landlords. Tan Ah Tah, J., (as he then was) held that the whole of the land constituted "premises" within the meaning of the Ordinance and came within its protection. 30 40

The Happy World amusement park was again

the subject of litigation in British & Malayan Trustees Ltd. v. Happy World Ltd. (1963) M.L.J. 380, where the plaintiffs sought possession of the premises. One of the grounds on which the plaintiffs relied was that the defendants had sublet a portion of the premises and they received in respect of such subletting, rents which exceeded in the aggregate 110 per centum of the recoverable rent paid by them. Accordingly, it was alleged that section 15 (1) (g) of the Ordinance applied. It was held in that case by Chua, J., that the defendants by collecting from the persons occupying the various stalls, cinemas, restaurants and other buildings a total sum of nearly \$17,000 per mensem when they the defendants paid only \$800 per mensem to the plaintiffs, had contravened section 15 (1) (g) of the Ordinance and the plaintiffs were entitled to an order for possession of the premises. The plaintiffs in the present case are relying on the very same ground for recovery of possession of their property.

Counsel for the defendant relied on the decision in Kwek Kim Hock v Ong Boon Siong (1954) M.L.J. 253. In that case the landlord let a piece of vacant land to the defendant at \$6.00 a month. The defendant with the assent of the landlord, erected at his own expense a wooden building which contained a shop and two or three apartments which were let separately as residential quarters. The total rent received by the defendant was \$85.00 per mensem. The landlord claimed possession on the ground that the defendant had sublet portions for an aggregate return, greatly exceeding the rent paid by him to the plaintiff. The question for the determination of the Court was whether section 15 (1) (g) of the Ordinance applied where the landlord lets vacant land and the tenant erects on it a building at his own expense. Taylor J., in holding that

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section 15 (1) (g) did not apply to the facts
of that case observed:

"One cannot effectively let a building
without in fact letting the site on
which the building stands. From the
point of view of the occupier it is all
one but from the point of view of the
party letting there may be two aspects.
In point of law the defendant in this
case, though not the landlord of the
site, is the owner of the building. 10
He has sub-let parts of the land in
conjunction with original lettings,
not sublettings, of parts of the
building. It is impossible to apply
paragraph (g) to these circumstances
unless the rent actually paid by the
occupants can be apportioned by the
court, so much for the site and so much
for the building, and the proportion of 20
the rent attributable to the site
exceeds 11 tenths of the ground rent.
Such an apportionment would rarely be
practicable and Counsel for the landlord
admitted that he could not attempt such
apportionment on the facts of this case.
it follows that ground (g) cannot be
established"

In the present case, there is no suggestion
that the 2,100 temporary buildings on the land 30
in question were erected by the defendant at
her own expense or that they are at present
owned by her. The defendant has been sub-
letting small portions of the land as vacant
land and the temporary buildings in question
have been erected by the sub-tenants at their
own expense. The decision in Kwek Kim Hock
v. Ong Boon Siong is therefore not applicable
to the present case.

On the facts of this case I hold that the 40
land demised to the defendant is "premises"
within the meaning of Section 15 (1) (g) of
the Ordinance. The defendant has contra-
vened section 15 (1) (g) and the plaintiffs
are therefore entitled to possession of the

premises forthwith subject to the rights of the sub-tenants.

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10 I shall now deal with the plaintiffs' claim for mesne profits. It is agreed by both parties that there was a month to month tenancy as from 1st April 1958 on the same terms as the Lease. This tenancy was determined by a notice to quit dated 23rd February 1961 calling upon the defendant to deliver up possession of the land on 31st March 1961. Counsel for the plaintiffs submitted that the defendant was a trespasser as from 1st April 1961 and was liable to pay mesne profits. Counsel for the defendant submitted that the defendant was holding over as from 1st April 1961 and was therefore a statutory tenant under section 27 (a) of the Ordinance; that she was entitled as statutory tenant to hold over until an order of Court granting possession to the plaintiffs was made; that in the meantime all that she had to pay was the standard rent, and, as she was not in arrears of rent, she had nothing to pay; and that the question of mesne profits did not arise at all.

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30 In my opinion, on the facts, it is not correct to say that the defendant became a statutory tenant on 1st April 1961 when she failed to deliver up possession upon the expiry of the notice to quit. The defendant could be regarded as a statutory tenant on 1st April 1961 only if on that date there were no grounds for ejecting her. It is clear law that if at the moment when the contractual tenancy is determined, the case falls within one of the exceptions set out in section 15 of the Ordinance, the landlord is not prevented from obtaining possession by the provisions of the Ordinance and therefore the tenant in such a case does not become a "statutory tenant"; See Ida Fernandez v. Murugiah, (1950) M.L.J. 83. and K.S. Mohamed Ismail v. Choo Pin (1954) M.L. J. 183. In the present

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case, at the moment of the determination of the contractual tenancy, the defendant was not a person protected against deprivation of possession because she had contravened section 15 (1) (g) of the Ordinance and thus she did not at that moment become a statutory tenant. I therefore hold that the defendant became a trespasser as from 1st April 1961 and is liable to pay mesne profits.

10

Counsel for the defendant submitted that the question of mesne profits must be decided in accordance with our law because section 5 (2) of the Civil Law Ordinance prohibited the introduction into Singapore of any part of the law of England relating to rights and interests in immovable property. Counsel submitted that the expression "mesne profits" has statutory definition which is to be found in section 17 (4) of the Civil Law Ordinance (Chapter 24) which reads as follows:

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"Every tenant holding over after the determination of his tenancy shall be chargeable, at the option of his landlord, with double the amount of his rent until possession is given up by him or with double the value during the period of detention of the land or premises so detained, whether notice to that effect has been given or not."

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It was submitted that by virtue of the provisions of section 29 of the Ordinance, the provisions of section 17 (4) of the Civil Law Ordinance did not apply to a tenant of premises to which the Ordinance applied and as the premises in this case are rent-controlled, section 17 (4) of the Civil Law Ordinance had no application. It was argued that the plaintiffs were therefore not entitled to claim mesne profits in accordance with section 17 (4) of the Civil Law Ordinance and as English law could not be imported, the plaintiffs could not claim

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mesne profits in accordance with English law.

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1964

(contd)

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In my opinion, mesne profits are damages for the tort of trespass and have nothing to do with land laws or with rights and interests in immovable property. A landlord may recover in a claim for mesne profits the damages which he has suffered through being out of possession of the land. Mesne profits being damages for trespass can only be claimed from the date when the defendant ceased to hold the premises as a tenant and became a trespasser. The landlord is not limited to a claim for the profits which the defendant has received from the land, or those which he himself has lost; he may recover all the loss which has resulted from the dis-possession. See 23 Halsburys' Laws of England, third edition, page 561.

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In my view the plaintiffs are clearly entitled to the rents of the sub-tenants for the period of holding over. The defendant became a trespasser as from 1st April 1961 and accordingly she must hand over to the plaintiffs all rents that she has collected from the sub-tenants in respect of the period commencing 1st April 1961 up to date of this judgment. She is entitled to keep all rents collected by her in respect of any period before 1st April 1961. There shall be an inquiry before the Registrar who shall ascertain and certify the amount that has been collected by the defendant from her sub-tenants in respect of the period from 1st April 1961 to date of this judgment. There shall be judgment for the plaintiffs for the sum so certified by the Registrar less the amount that the defendant has paid to the plaintiffs by way of rent in respect of the said period.

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I shall now deal with the counter-claim of the defendant. It is not in

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(contd)

dispute that the standard rent of the premises is \$750 per mensem. Since 1st April 1953 the plaintiffs have received from the defendant \$1,300 per mensem as rent and from 1st April 1958 they have received \$1,400 per mensem. These rents were fixed by agreement between the parties and were stated to be subject to their being sanctioned by the Rent Conciliation Board. The plaintiffs never made the necessary application to the Rent Conciliation Board with the result that the rent which they have been receiving included an unauthorised increase. The Defendant now counter-claims from the plaintiffs the excess rent that she has paid to them since 1953. It was clearly within the contemplation of the parties that the premises were subject to the Ordinance and as the rent was increased from \$750/- to \$1,300/- and later to \$1,400/- without the sanction of the Rent Conciliation Board the defendant is entitled to recover the excess rent paid by her to the plaintiffs.

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The plaintiffs have pleaded the Limitation Ordinance. The defendant concedes that the Limitation Ordinance is applicable and that all she is entitled to is the excess rent she paid in respect of the six years immediately prior to the date of the writ in these proceedings. The writ was issued on 8th April 1961. The defendant maintains that she is entitled to recover the excess rent she paid for the period of six years from 8th April 1955 to the 7th April 1961.

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In my view the defendant being a trespasser as from 1st April 1961, she is not entitled to claim the excess rent she paid for any period after that date because all such rent is to be set off against the mesne profits she has to pay to the plaintiffs. She is therefore entitled to a refund of the excess rent she paid for the period 8th April 1955 to 31st March 1961 which amounts to \$43,071.66 as follows:

61.

Excess rent at S550/-
p.m. from 8.4.55 to
31.3.58 £19,671.66

Excess rent at S650/-
p.m. from 1.4.58 to
31.3.61 £23,400.00

£43,071.66

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Singapore

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1964

(contd.)

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There shall be judgment for the defendant on the counter-claim for £43,071.66. I order the defendant to pay the plaintiffs' costs of the claim and the plaintiffs to pay the defendant's costs of the counter-claim.

Sd. CHOOR SINGH

JUDGE

DATED this 7th November 1964

—
NO. 10

FORMAL JUDGMENT
dated 7th November 1964

No. 10

Formal Judgment

7th November
1964

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THIS ACTION coming on for trial on the 18th, 19th, 23rd and 24th days of March, 1964 before the Honourable Mr. Justice Choor Singh in the presence of Counsel for the Plaintiffs and for the Defendant and upon reading the pleadings filed herein and upon hearing the evidence adduced and what was alleged by Counsel on both sides IT WAS ORDERED that this action should stand for judgment and the same coming on for judgment this day in the presence of Counsel for the Plaintiffs and for the Defendant THIS COURT DOTH ADJUDGE that the Plaintiffs do recover against the Defendant possession of all that piece of land situated in the District of Paya Lebar, Singapore, being

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1964

part of Lot 322 (formerly part of Lot 1-42),
Lot 1-52 (formerly part of Lot 1-42),
Lot 1-20, Lot 1-26, and Lot 1-47 (formerly
part of Lot 1-27) all of Mukim XXIII,
together with the buildings erected thereon
(hereinafter called the "said premises")
AND IT WAS ORDERED that the Defendant do
deliver up possession of the said premises
to the Plaintiffs forthwith AND IT IS
HEREBY DIRECTED that this judgment for
possession shall not be enforced against the
sub-tenants of the Defendant AND THIS COURT
DOTH FURTHER ADJUDGE that the Plaintiffs do
recover against the Defendant mesne profits
to be assessed by means of an inquiry to be
held before the Registrar who shall
ascertain and certify the amount of rents
collected by the Defendant from her sub-
tenants in respect of the period from the
1st April 1961 to the date hereof, less the
amount that the Defendant has paid to the
Plaintiffs by way of rent in respect of the
same period AND IT IS FURTHER ORDERED that
the Plaintiffs be at liberty to enter further
judgment against the Defendant in this
action for the amount so certified by the
Registrar AND THIS COURT DOTH FURTHER
ADJUDGE that the Defendant do recover
against the Plaintiffs the sum of
\$43,071.66 being the excess rent paid by her
for the period 8th April 1955 to the 31st
March 1961 AND THIS COURT DOTH LASTLY
ADJUDGE that the Plaintiffs do recover
against the Defendant their costs of the claim
in this action and of and incidental to the
Inquiry before the Registrar and consequent
thereon AND that the Defendant do recover
against the Plaintiffs her costs of the
counterclaim in this action AND that all such
costs be taxed on the higher scale.

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Entered this 9th day of December, 1964,
at 12.15 p.m. in Volume XCII pages 398 and
399.

SD. BOEY KUN HONG

DY. REGISTRAR

NO. 11

AMENDED NOTICE OF APPEAL

In the Federal
Court of Malaysia
(Appellate
Jurisdiction)

—
No. 11

Amended Notice
of Appeal

4th December
1964

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TAKE NOTICE that the Appellant being dissatisfied with the decision of the Honourable Mr. Justice Choor Singh given at Singapore on the 7th day of November, 1964, appeals to the Federal Court against ~~such part only the whole~~ of the said decision. ~~as decides that the Plaintiffs/~~ Respondents are entitled to possession of the premises the subject matter of the above-mentioned Suit and that the Defendant/Appellant shall pay to the Plaintiffs/ Respondents all rents which the Defendant/Appellant has collected from sub-tenants of the said premises in respect of the period commencing the first day of April, 1961 to date of the Judgment less the amount paid by the Defendant/Appellant to the Plaintiffs/ Respondents by way of rent in respect of the said period, on the grounds that the Defendant/Appellant became a trespasser with effect from the first day of April, 1964.

Dated the 4th day of December, 1964.

Amended as underlined in red ink this 23rd day of January, 1965, pursuant to the Order of the Honourable Mr. Justice Tan Ah Tah dated the 21st day of January, 1965.

30

Signed: Drew & Napier

Solicitors for the Appellant.

To The Registrar, Federal Court, Kuala Lumpur.
The Registrar, High Court, Singapore.
The above named Respondents, and their
Solicitors Messrs. Donaldson & Burkinshaw.

The address for service of the Appellant is the office of Messrs. Drew & Napier of Nos. 30-35, Chartered Bank Chambers, Battery Road, Singapore.

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

NO. 12

MEMORANDUM OF APPEAL

—
No. 12
Memorandum
of Appeal
6th February
1965

The abovenamed Appellant appeals to the Federal Court against the whole of the decision of the Honourable Mr. Justice Choor Singh given at Singapore on the 7th day of November, 1964, on the following grounds;

1. That the learned trial Judge erred in law in holding that the land the subject matter of these proceedings falls within the definition of "premises", within the meaning of section 15 (i) (g) of the Control of Rent Ordinance (Cap. 242). 10
2. That the learned trial Judge erred in law in holding that the Plaintiffs/ Respondents were entitled to recover possession of the said land pursuant to section 15 (i) (g) of the said Ordinance.
3. That the learned trial Judge erred in law in holding that the Defendant/ Appellant having held over after expiry of the said Notice to Quit and having continued to pay rent, which rent was accepted by the Plaintiffs/Respondents without prejudice to the said Notice to Quit, was a trespasser. 20
4. That the learned trial Judge erred in law in holding that mesne profits payable in respect of land which is subject to the said Ordinance are damages for trespass. 30
5. That the learned trial Judge erred in law in holding that the Defendant/ Appellant was liable to pay to the Plaintiffs/Respondents by way of damages for trespass such sums as the Defendant/Appellant had collected from her sub-tenants subsequent to the expiry of the Notice to Quit and up to the date of judgment. 40

6. That the learned trial Judge erred in law in failing to order the repayment to the Defendant/Appellant of the difference between the sums paid to the Plaintiffs/Respondents and the standard rent between the date of expiry of the said Notice to Quit and the date of judgment.

In the Federal Court of Malaysia (Appellate Jurisdiction)

No. 12

Dated the 6th day of February, 1965.

Memorandum of Appeal

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Sd: Drew & Napier.

6th February 1965

Solicitors for the Appellant.

(contd)

To: The Registrar, Federal Court, Kuala Lumpur.

The abovenamed Respondents, and their Solicitors, Messrs. Donaldson & Burkinshaw.

The address for service of the Appellant is the office of Messrs. Drew & Napier of Nos. 30-35, Chartered Bank Chambers, Battery Road, Singapore.

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NO. 13

No. 13

JUDGMENT OF WEE CHONG JIN C.J.

Judgment of Wee Chong Jin C.J.

CORAM: Thomson, L.P., Malaysia
Wee, C.J., Singapore
Tan Ah Tah, F.J.

6th April 1966

JUDGMENT OF WEE CHONG JIN C.J., SINGAPORE

This appeal arises out of a claim by the respondents, as Trustees under the Will of Syed Ahmed bin Abdulrahman Alsagoff, deceased, for the recovery of possession of certain lands comprising an area of some 550 acres on which were erected with the assent of the respondents over 2,000 temporary buildings by persons to whom small portions of the land were sublet as Vacant

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In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

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No. 13

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Wee Chong
Jin C.J.

6th April
1966

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land by the appellant. There was also a claim for mesne profits.

Both parties by their pleadings and before this Court were in agreement that the subject matter of the action was premises within the definition of "premises" in Section 2 of the Control of Rent Ordinance (Cap. 242) (hereinafter referred to as "the Ordinance") and therefore controlled premises.

10

The claim for recovery of possession was based on a number of grounds, one of them being that the appellant as tenant of the respondents had been receiving from the sub-tenants substantially more than 110% of the rent which she herself paid to the respondents.

Section 15 (1) (g) of the Ordinance enables a landlord to recover possession of controlled premises:

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"Where the tenant having sublet the premises or part thereof receives in respect of such subletting rents (excluding any municipal services paid by the tenant) for any sublet part of the premises in excess of the recoverable rent for that part, or rents which exceed in the aggregate one hundred and ten per centum of the recoverable rent paid by the tenant himself including the apportioned rental or value of any part of the premises retained by the tenant or not sublet by him."

30

At the trial counsel for the appellant, while conceding that the appellant had been receiving rents in excess of 110% of the rent she paid to the respondents, contended that on its true construction section 15 (1) (g) was not applicable on the undisputed facts of the case. His argument at the trial is set out in the judgment of the trial judge as follows:-

40

"He argued that "premises" is the key word in paragraph (g) and the definition of "premises" appearing in section 2 of the Ordinance is governed by the expression "except where the context otherwise requires" appearing in the opening words of section 2. Counsel argued that the context of section 15 (1) (g) requires a definition of premises more limited than that given in section 2; that it clearly contemplates premises as being a building part of which is sublet by a tenant and part of which is retained by him for his own use; and that reference to municipal services in paragraph (g) lends colour to that view. Counsel asked, can the expression "premises" in the context of section 15 (1) (g) refer to 550 acres of land occupied by some 2,100 sub-tenants?

It was suggested that the test is, what mischief was section 15 (1) (g) enacted to prevent? Counsel contended that it was enacted to prevent a chief tenant of a building who keeps a room and rents the rest of the building by sub-dividing it into cubicles from charging rents for the cubicles which in the aggregate exceed 110% of the rent paid by the chief tenant. Counsel contended that the present case was on an entirely different footing and section 15 (1) (g) of the Ordinance had no application.

It was submitted further that the defendant's tenancy of the land in question was in the nature of a business; she employed staff, to wit, a manager and rent collectors to collect rent from the 2,100 sub-tenants; she paid \$12,120 per annum as wages to her staff; she paid \$3,000 per annum as assessment; she paid \$6,000 per annum as income tax on the rents collected by her from the sub-tenants; and she paid the plaintiffs \$16,800 per

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1966

(contd)

annum as rent. And there remained about \$2,000 per mensem for her when all these payments had been made. It was submitted that the tenancy was in the nature of an investment for the defendant and she was carrying on the business of rent collecting and section 15 (1) (g) of the Ordinance did not apply to the land."

The trial judge came to the conclusion that the lands demised to the appellant were "premises" within the meaning of section 15 (1) (g) and made an order for recovery of possession forthwith against the appellant.

10

Counsel for the appellant pressed the same arguments before this Court but in my opinion the point is without any substance.

Clearly the mischief the legislature intended to prevent by section 15 (1) (g) was to withdraw the protection given by the Ordinance to all tenants of controlled premises from those tenants who under cover of this protection, by sub-letting the whole or parts of the premises made a profit at the expense of the landlord. On the facts of this particular case the appellant as tenant of the respondents, was benefiting, merely by sub-letting small portions of the "premises" to others, to the extent of some \$2,000 per month at the expense of the respondents. It seems to me that it does not matter whether the "premises" is a building or is land on which a building or buildings have been erected and so long as it can be proved that a tenant of "premises" as defined by section 2 receives rents from sub-tenants in excess of the amount permitted by section 15 (1) (g) an order or judgment for recovery of possession may be made.

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Another argument was pressed before us why on the facts of this case the respondents were not entitled to rely on section 15 (1) (g). It is contended that the trial judge, having found that the standard rent was

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10 ~~8~~750/- p.m. and that the respondents had thereby, in receiving rent of ~~8~~1,300 p.m. from 8.4.55 to 31.3.58 and ~~8~~1,400/- p.m. from 1.4.58 to 31.3.61 without obtaining the prior sanction of the Rent Conciliation Board, contravened the provisions of section 3 of Ordinance, he had erred in law in making an order for possession under section 15 (1) (g). I am not impressed by this argument. On the facts the increases, albeit contrary to section 3, were freely negotiated.

20 The position may well be different had the action for recovery of possession been based on the fact that the appellant, although she was receiving rents from her sub-tenants well within the maximum amount permitted by section 15 (1) (g) if the recoverable rent was ~~8~~1,400 p.m.. had contravened section 15 (1) (g) as the true recoverable rent was ~~8~~750 p.m. by reason of the fact that no application had been made to the Rent Conciliation Board to sanction the increases agreed upon by the parties. If those were the facts no Court I would venture to think would have made an order for possession under section 15 (1) (g) but as I have said the facts in the present case were entirely different.

30 The other grounds of appeal relate to the claim by the respondents for mesne profits. Choor Singh, J. held that the appellant on the expiry of the notice to quit became a trespasser and as mesne profits are damages for the tort of trespass, he held that the respondents were entitled to recover as mesne profits the damages they had suffered through being out of possession of the land. He assessed the damages as all the rents the appellant had collected
40 from her sub-tenants from the date of the expiry of the notice to quit up to the date of the judgment.

It is argued that when the respondents accepted rents tendered after the expiry of the notice to quit on 31st March 1961,

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although such acceptance was qualified by stating that the acceptance was "without prejudice to the notice to quit", the appellant cannot in law be a trespasser on the ground that the respondents, by such acceptance had waived their right to treat the appellant as a trespasser. The case relied on for this proposition is Segal Securities Ltd. v. Thoseby (1963) 2 W.L.R. 403. In that case Sachs J. said it was accepted law since the classic judgment of Parker J. in Matthews v. Smallwood (1910) 1 Ch. 777, that acceptance of rent although "without prejudice" by a landlord with knowledge of a breach of covenant entitling him to forfeiture constitutes as a matter of law a waiver of the breach. But Sachs J. went on to say at page 411:-

"It is thus a matter of law that once rent is accepted a waiver results. The question of quo animo it is accepted in forfeiture cases is irrelevant in relation to such acceptance. (I would mention that of course that is not so where the acceptance of rent has to be considered after the expiry of a lease by effluxion of time or notice - a distinction which has been adverted to in more than one authority.)"

In my opinion in this case the question of quo animo the rent is accepted is relevant in relation to such acceptance. Choor Singh J. made no specific finding on this as the point of waiver was not taken before him, but had it been, the only conclusion he could come to on the evidence was that the respondents by their qualified acceptance of the rent after the expiry of the notice to quit never intended to create a fresh tenancy and never intended to waive their right of suing the appellant as a trespasser on the land. I am accordingly of the opinion that no question of waiver arises on the qualified acceptance of rent.

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It is also argued that on the true construction of section 27 (a) of the Ordinance, the appellant did not become a trespasser until an Order of Court granting immediate possession to the respondents was made in that section 27 (a) enabled a tenant on the expiry of a notice to quit to hold over as a statutory tenant or alternatively as someone who is not a trespasser until a Court had decided against him in an action for possession. This argument Choor Singh J. had rejected. He held relying on the cases of Ida Fernandez v. Murugish, (1950) M.L.J. 83 and K.S. Mohamed Ismail v. Choo Pin (1954) M.L.J. 183 that it was clear law that if at the moment when the contractual tenancy is determined, the case falls within one of the exceptions set out in section 15, the landlord is not prevented from obtaining possession by the provisions of the Ordinance and therefore the tenant in such a case does not become a statutory tenant and becomes a trespasser when the contractual tenancy is determined.

Counsel for the appellant contended before us that the two cases relied on were not good law, or alternatively that they did not decide that such a person became a trespasser at the determination of the contractual tenancy. He cited the English case of Cruise v. Terrell (1922) 1 K.B. 664 where the English Court of Appeal held that a landlord who re-entered on the expiration of the term in the absence of the tenant and subsequently obtained an order for possession on one of the grounds permitted by section 5 of the Increase of Rent and Mortgage Interest (Restriction) Act 1920 was liable for trespass on the ground that until an order for possession was obtained against the tenant, he stayed on, not as a trespasser, but as a statutory tenant - even against the will of the landlord. In Cruise v. Terrell the Court affirmed the principle

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

—
No. 13

Judgment of
Wee Chong
Jin C.J.

6th April
1966

9contd)

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

—
No. 13

Judgment of
Wee Chong
Jin C.J.

6th April
1966

(contd)

enunciated by an earlier decision of the same Court in the case of Remon v. City of London Real Property Co. (1921) 1 K.B. 54 that such a tenant i.e. a tenant who holds over against the will of the landlord was a person remaining in possession by virtue of the provisions of the Act.

In Cruise v. Terrell Warrington L.J. at page 672 said of such a tenant that "It is quite clear that a person holding over is not to be treated as a trespasser".
Scrutton L.J. at page 673 said "until an order was obtained against him, a tenant stayed on not as a trespasser."

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It is true that our Rent Ordinance is not in pari materia with the English Rent Acts and the two English cases above referred to dealt with the effect of section 15 of the English 1920 Act, in particular section 15 (1), the material portions of which are:-

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"A tenant who by virtue of the provisions of this Act retains possession of any dwelling-house to which this Act applies shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Act".

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It is also true that the 1920 Act does not define who are statutory tenants whereas section 27 of our Ordinance does so by providing as follows:-

"27. The following persons are statutory tenants under this Ordinance, namely:-

- (a) any tenant of premises who remains in possession thereof after the determination by any means of his tenancy and who cannot by reason of the provisions of this Ordinance be deprived of such possession by his landlord; and

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(b) any sub-tenant becoming a statutory tenant under and by virtue of any of the provisions of this Ordinance."

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

10 However, this Court in the case of Tan Khio Boei & Anor. v. Ban Hin Lee Bank Ltd. (1964) M.L.J. 71 expressly affirmed the judgment of Thomson J. (as he then was) in Ramasamy Pillai v. Meyappa Chettiar (1955 M.L.J. 105) where at page 107 Thomson J. said:-

—
No. 13

Judgment of
Wee Chong
Jin C.J.

6th April
1966

(contd)

20 "I propose to deal with the question of construction in the light of the English authorities for, in my opinion, there is no substance in the argument that because the English Acts do not contain any definition of a statutory tenant as does section 15 of our Ordinance there is thereby some material difference between the law here and the law in England. It is true that the English Acts do not formally define a "statutory tenant" although the expression has been used by the English Courts for very many years. But when it is remembered that the English Acts only apply to dwelling houses and do not provide for any preliminary proceedings before a tribunal corresponding to our Rent Assessment Board, I can find no material difference between the provisions of our section 15 and section 15 of the English Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, which deals with the position of a "tenant who by virtue of the provisions of this Act retains possession of any dwelling house to which this Act applies". I can see no material distinction between such a tenant and "any tenant of premises who remains in possession thereof after the determination by any means of his tenancy and who cannot by reason of the provisions of this Ordinance be deprived of such possession by his landlord".

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In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

—
No. 13

Judgment of
Wee Chong
Jin C.J.

6th April
1966

(contd)

In Tan Khio Soei & Anor. v. Ban Hin Lee Bank Ltd., (Supra) Thomson L.P., with whose judgment the two other members of the Court concurred, said at page 72:-

"In the case of Ramasamy Pillai v. Meyappa Chettiar, supra, I expressed the view that for reasons which I do not propose to repeat here there is no difference between a statutory tenant under our legislation and a statutory tenant under the English Rent Acts, and I have listened to nothing in the present case which creates any doubt in my mind as to the correctness of that view."

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I am therefore of the opinion adopting the expressions used by Warrington L.J. and Scrutton L.J. that the Appellant, until Choor Singh J. made an order for possession against him, cannot be treated as a trespasser. Even if this point had not been considered judicially before I would have come to the same conclusion.

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If it were otherwise the position would result that a tenant, whose contractual tenancy had been determined by his landlord who is seeking to obtain an order for possession under any of the grounds specified in section 15 (1), would either have to run the risk of having to pay damages as a trespasser if the Court is of the opinion that the landlord has made out a case under the section, or have to surrender possession to his landlord. I am of the opinion that section 27 (a) ought not to be construed to produce such a result. At best section 27 (a) is ambiguous and as it clearly cannot have been the intention of the Legislature by an Ordinance such as the Control of Rent Ordinance to enable landlords of controlled premises to harass tenants or to place tenants in the invidious position of having to suffer a pecuniary penalty by way of damages for the tort of trespass if they elected wrongly by holding over,

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I would construe it to include a tenant who holds over until a Court subsequently decides that the landlord is entitled to an order for possession under one of the grounds specified in section 15 (1).

In the Federal Court of Malaysia (Appellate Jurisdiction)

The view I have taken that the appellant was not a trespasser until Choor Singh J. made an order for possession against him therefore renders it unnecessary for me to deal with the rest of the grounds of appeal.

No. 13

Judgment of Wee Chong Jin C.J.

6th April 1966

(contd)

The appellant accordingly succeeds in this appeal to the extent that I would set aside the order that the respondents are entitled to recover against the appellant mesne profits to be assessed by means of an enquiry before the Registrar.

Sd. WEE CHONG JIN

CHIEF JUSTICE,
SINGAPORE

SINGAPORE, 6th April, 1966

I agree.

Sd. TAN AH TAH

JUDGE,
FEDERAL COURT

Judgment of Tan Ah Tah F.J.

6th April 1966

NO. 14

ORDER OF THE FEDERAL COURT

IN OPEN COURT

This 6th day of April, 1966

No. 14

Order of the Federal Court

6th April 1966

O R D E R

THIS APPEAL coming on for hearing on the

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

No. 14

Order of the
Federal Court

6th April
1966

(contd)

27th and 28th days of April, 1965 in the presence of Mr. Joseph Grimberg of Counsel for the abovenamed Appellant and Mr. Charles Lindsey Duff of Counsel for the abovenamed Respondents AND UPON READING the Record of Appeal filed herein AND UPON HEARING Counsel as aforesaid IT WAS ORDERED that this Appeal do stand adjourned for Judgment and the same coming on for Judgment this day before the Honourable Mr. Justice Wee Chong Jin, Chief Justice of Singapore and the Honourable Mr. Justice Tan Ah Tah, Judge, Federal Court, Malaysia, in the presence of Counsel as aforesaid AND BY CONSENT of the parties hereto to Judgment being given by two Judges of this Court in accordance with Section 42 of the Courts of Judicature Act, 1964, IT IS ORDERED that this Appeal against the Judgment of the Honourable Mr. Justice Choor Singh dated the 7th day of November, 1964 insofar as it is adjudged and ordered the Respondents/Plaintiffs do recover against the Appellant/Defendant possession of all that piece of land situated in the District of Paya Lebar, Singapore, being part of Lot 322 (formerly part of Lot 1-42), Lot 1-52 (formerly part of Lot 1-42, Lot 1-20, Lot 1-26 and Lot 1-27) all of Mukim XXIII, together with the buildings erected thereon (hereinafter called the "said premises") BE DISMISSED AND IT IS ORDERED that this Appeal against the said Judgment insofar as it adjudged and ordered the Respondents/Plaintiffs do recover against the Appellant/Defendant mesne profits of the said premises to be assessed by means of an inquiry before the Registrar BE ALLOWED and that part of the said Judgment in favour of the Respondents/Plaintiffs for mesne profits be and is hereby set aside AND IT IS FURTHER ORDERED that the Respondents do pay to the Appellant one-quarter of the costs of this Appeal to be taxed and that the Appellant do pay to the Respondents three-quarters of the costs of the trial in the Court below to be taxed AND IT IS LASTLY ORDERED that the sum of \$500.00 lodged in Court as

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security for the costs of this Appeal be paid out by the Accountant-General to the Appellant or her Solicitors Messrs. Drew & Napier.

GIVEN under my hand and the seal of the Court this 6th day of April, 1966.

Sd: HO THIAN CHEH

DY. REGISTRAR.
FEDERAL COURT
MALAYSIA.

In the Federal Court of Malaysia (Appellate Jurisdiction)

No. 14

Order of the Federal Court

6th April 1966

(contd)

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NO. 15

ORDER GRANTING FINAL LEAVE TO APPEAL TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

IN THE FEDERAL COURT OF MALAYSIA

HOLDEN AT SINGAPORE

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.111 of 1964

B E T W E E N : MUCHOOL KHANUM RESHTY (Widow) Appellant

No. 15

Order granting final leave to Appeal to the Judicial Committee of the Privy Council

10th October 1966

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- and -

1. SYED AHMED BIN ALWEE AL-JUNIED
 2. DATO SYED AHMAD BIN MOHAMED ALSAGOFF
 3. SYED MOHAMED BIN ALI ALSAGOFF (Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased)
- Respondents

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In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

(In the Matter of Suit No. 368 of 1961
in the High Court in Singapore

B E T W E E N :

1. SYED AHMED BIN ALWEE
AL-JUNIED
 2. DATO SYED AHMAD BIN MOHAMED
ALSAGOFF
 3. SYED MOHAMED BIN ALI ALSAGOFF
(Trustees of the Estate of
Syed Ahmed bin Abdulrahman
Alsagoff, deceased)
- Plaintiffs

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- and -

MUCHOOL KHANUM RESHTY (Widow)
Defendant

CORAM: THE HONOURABLE MR. JUSTICE
WEE CHONG JIN, CHIEF JUSTICE,
SINGAPORE;

THE HONOURABLE MR. JUSTICE TAN AH TAH,
JUDGE, FEDERAL COURT, MALAYSIA;

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AND

THE HONOURABLE MR. JUSTICE JAMES
WALTER DAVY AMBROSE, JUDGE,
HIGH COURT, SINGAPORE.

IN OPEN COURT

This 10th day of October, 1966

O R D E R

UPON MOTION made unto the Court this day
by Mr. Lim Cheng Peng of Counsel for the
Respondents in the presence of Mr. D.E. S.
Chelliah of Counsel for the Appellant AND
UPON READING the Notice of Motion and the
Affidavit of George Low Siew Choon both filed
herein on the 17th day of September, 1966
AND UPON HEARING Counsel for the Respondents
and for the Appellant IT IS ORDERED that

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No. 15
Order granting
final leave to
Appeal to the
Judicial
Committee
of the
Privy Council
10th October
1966
(contd)

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final leave be granted to the Respondents to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council against such part of the Order of the Federal Court dated the 6th day of April, 1966 as sets aside that part of the Judgment of the High Court in Singapore, dated the 7th day of November, 1964, in respect of the Respondents' claim for recovery of mesne profits AND IT IS ORDERED that the costs of and incidental to this application be costs in the Appeal.

Given under my hand and the seal of the Court this 10th day of October, 1966.

Sgd. C.C. Eu.

REGISTRAR
FEDERAL COURT
MALAYSIA

In the Federal Court of Malaysia (Appellate Jurisdiction)

—
No. 15

Order granting final leave to Appeal to the Judicial Committee of the Privy Council
10th October 1966

(contd)

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NO. 16

ORDER GRANTING FINAL LEAVE TO CROSS-APPEAL TO THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

IN THE FEDERAL COURT OF MALAYSIA

HOLDEN AT SINGAPORE

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL No.111 of 1964

No. 16

Order granting final leave to Cross-Appeal to the Judicial Committee of the Privy Council
10th October 1966

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

B E T W E E N : MUCHOOL KHANUM RESHTY
(Widow) Appellant

- and -

No. 16
Order granting
final leave to
Cross-Appeal
to the
Judicial
Committee
of the
Privy Council
10th October
1966

1. SYED AHMED BIN ALWEE
AL-JUNIED
 2. DATO SYED AHMAD BIN
MOHAMED ALSAGOFF
 3. SYED MOHAMED BIN ALI
ALSAGOFF (Trustees of
the Estate of Syed
Ahmed bin Abdulrahman
Alsagoff, deceased)
- Respondents

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(In the Matter of Suit No. 368 of 1961
in the High Court in Singapore

B E T W E E N :

1. SYED AHMED BIN ALWEE
AL-JUNIED
 2. DATO SYED AHMAD BIN MOHAMED
ALSAGOFF
 3. SYED MOHAMED BIN ALI
ALSAGOFF (Trustees of the
Estate of Syed Ahmed bin
Abdulrahman Alsagoff,
deceased)
- Plaintiffs

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- and -

MUCHOOL KHANUM RESHTY
(Widow) Defendant

CORAM: THE HONOURABLE MR. JUSTICE WEE CHONG
JIN, CHIEF JUSTICE, SINGAPORE;
THE HONOURABLE MR. JUSTICE TAN AH TAH,
JUDGE, FEDERAL COURT;

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AND

THE HONOURABLE MR. JUSTICE AMBROSE,
JUDGE, HIGH COURT, SINGAPORE.

IN OPEN COURT

This 10th day of October, 1966

O R D E R

In the Federal
Court of
Malaysia
(Appellate
Jurisdiction)

No. 16

Order granting
final leave to
Cross-Appeal
to the
Judicial
Committee
of the
Privy Council
10th October
1966

(contd)

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UPON MOTION made unto the Court this day by Mr. D.E.S. Chelliah of Counsel for the Appellant in the presence of Mr. Lim Cheng Peng of Counsel for the Respondents AND UPON READING the Notice of Motion dated the 1st day of October, 1966, the Order herein dated the 12th day of July, 1966 and the notice of payment into Court, dated the 2nd day of August, 1966 AND UPON HEARING Counsel for the Appellant and for the Respondents IT IS ORDERED that final leave be granted to the Appellant to enter a cross appeal to Her Britannic Majesty in Her Privy Council, contending that the Order of the Federal Court, dated the 6th day of April, 1966, affirming that part of the Judgment of the Honourable Mr. Justice Choor Singh, dated the 7th day of

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November, 1964, whereby it was adjudged that the Respondents do recover against the Appellant possession of all that piece of land situated in the District of Paya Lebar, Singapore, being part of Lot 322, together with the buildings erected thereon, should be reversed or discharged AND IT IS ORDERED that the costs of this application be costs in the appeal.

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Given under my hand and the Seal of the Court this 10th day of October, 1966.

CERTIFIED TRUE COPY,

REGISTRAR,
FEDERAL COURT.

DEPUTY REGISTRAR.

Plaintiffs'
Exhibits

PLAINTIFFS' EXHIBITS

Exhibit "A.B.1" - Letter - Defendant's
Solicitors to Plaintiffs' Solicitors

Exhibit
"A.B.1"

Letter
Messrs. Drew
& Napier to
Messrs.
Donaldson &
Burkinshaw

CHWP/MJH/164

DREW & NAPIER
SINGAPORE

Messrs. Donaldson and Burkinshaw
Singapore.

12th May, 1952

12th May
1952

Dear Sirs,

Geylang Serai

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We have been consulted by our Client, Mr. M.A. Reshty who states that the Trustees have agreed to granted to him another lease of the above property for the period of five years at a rental of \$1,300, representing an increase of the rent by \$100 per month.

Our Client is also arranging for the two houses referred to by Mr. Phillips to be painted and white washed as desired.

We shall be obliged if you will kindly confirm that our Client's offer has been accepted, by the Trustees of this Estate.

Yours faithfully,

SD. DREW & NAPIER

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors to
Defendant's Solicitors

KEWH/H/VH/12054

DONALDSON & BURKINSHAW
SINGAPORE

14th May, 1952

Messrs. Drew & Napier,
Singapore.

Dear Sirs,

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

14th May
1952

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Perseverance Estate
Re: Lease to Mr. M.A. Reshty

We are in receipt of your letter of the 12th instant and confirm that the Trustees of the estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased have agreed to grant unto your client a fresh lease for five years from the 1st of April, 1952 at an increased rental of \$1,300/- per month subject to certain new conditions.

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With regard to the parts of the Perseverance Estate which have been acquired by Government and the new road reserves, we are instructed that rent at the agreed figure will have to be paid until such time as the new road etc. are constructed, after which adjustments will have to be made and mutually agreed upon. A clause to this effect must be inserted in the Lease.

30

Our clients have requested your client to repair the road on the land leased to your client and we shall be glad if you will confirm that this is being done.

Our clients have also pointed out to your client that taxis etc. must not be parked or washed on the reserve road abutting your client's office premises.

We note that your client is arranging for the painting and white-washing of the two permanent houses referred to by Mr. Phillips.

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

14th May
1952

We are of the opinion that the sanction of the Rent Conciliation Board should be obtained for the increase of rent and we understand that your client has agreed to this course being adopted. Please let us have your confirmation as to this.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

EXHIBIT "A.B.1" (contd)

Letter
Messrs. Drew
& Napier to
Messrs.
Donaldson &
Burkinshaw

30th May
1952

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

CHWP/MJN/264A

DREW & NAPIER
Singapore

30th May, 1952

Messrs. Donaldson & Burkinshaw,
Singapore.

Dear Sirs,

Perseverance Estate -
Mr. M.A. Reshty

We have now received our Client's instructions in connection with your letter of the 14th May last, and confirm that the rent will be paid at the agreed figure until such time as the new road has been constructed, when an adjustment will be made as mutually agreed. Our Client is repairing the road as requested, and as regards the parking and washing of taxis on the reserve road he has for some time past been doing his best to prevent the continuance of this nuisance. We have now advised our Client fully of his position, and we have no doubt that no further course for complaint will

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arise. If it does, immediate action will be taken against the offending taxis.

The two permanent houses will be painted and whitewashed as agreed, and we confirm that our Client will consent to an order of the Rent Conciliation Board being obtained.

Yours faithfully,

Sd. DREW & NAPIER

Plaintiffs' Exhibits

Exhibit "A.B.1" (contd)

Letter Messrs. Drew & Napier to Messrs. Donaldson & Burkinshaw

30th May 1952

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EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to Plaintiffs' Solicitors

CHWP/BDW/264A

DREW & NAPIER
SINGAPORE

30th October 1952

Dear Sirs,

M.A. RESHTY DECEASED
GUEYLANG SERAI PROPERTY

Letter Messrs. Drew & Napier to Messrs. Donaldson & Burkinshaw

30th October 1952

20

With reference to the Lease of the above property which had been agreed but we understand has not yet been executed, in view of the recent death of the late Mr. Reshty we should be obliged if this could be in the name of Mrs. Muchool Khanum Reshty his widow.

Yours faithfully,

SD. DREW & NAPIER

Messrs. Donaldson & Burkinshaw,
Singapore.

Plaintiffs'
Exhibits

EXHIBIT "A. B.1" (contd)

Letter - Plaintiffs' Solicitors to
Defendant's Solicitors

Exhibit
"A. B.1"
(contd)

DONALDSON & BURKINSHAW
SINGAPORE

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew &
Napier

12th November, 1952

Messrs. Drew & Napier
Singapore.

Dear Sirs,

12th
November
1952

M.A. Reshty, deceased -
Geylang Serai Property

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With further reference to your letter
CHWP/BDW/264A dated the 30th ultimo we have
not taken our clients' instructions.

We gather from your letter dated the 30th
ultimo that it is suggested that there was a
binding agreement for a lease to be issued to
the late Mr. Reshty. Please let us know if
your instructions are that this is so.

If it is so then it seems that the benefit
of the agreement will be vested in Mr. Reshty's
personal representatives who prima facie are
the persons to whom the lease should be issued.

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Our clients will not, we think have any
objection if the lease is taken in the name
of the widow but we shall have to take our
clients' further instructions on this
point.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

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EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

CHWP/JS/264A

DREW & NAPIER
Singapore

29th November, 1952

Messrs. Donaldson & Burkinshaw,
Singapore.

Dear Sirs,

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M.A. Reshty, deceased
Geylang Serai Property

We thank you for your letter of the 12th of November, and we do not think there is any doubt but there is a binding agreement for the lease to be issued, and in this connection, we refer to the first paragraph of your letter of the 14th of May, and as regards the conditions, to our letter of the 30th of May last.

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It is agreed that the benefit of the agreement vest in Mr. Reshty's legal representative, and there is no objection to the lease being issued in their names, if your Clients, the owners insist. It was, however, the wish of our Clients that the lease should be given in the name of Mrs. Reshty.

Yours faithfully,

SD. DREW & NAPIER

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw

29th November
1952

Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors to
Defendant's Solicitors

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew & Napier
10th August
1953

DONALDSON & BURKINSHAW
Singapore

AFT/H/VH/12054

10th August, 1953

Messrs. Drew & Napier,
Singapore.

Dear Sirs,

10

Estate of M.A. Reshty,
deceased
re: Land at Perseverance Estate

We are in receipt of your letter of
the 4th instant, and now send you herewith
draft lease (in duplicate) for your approval,
together with a plan of the property which
will be annexed to the lease.

We would draw your attention to the
revised areas mentioned in the schedule
to the lease which have been ascertained
after deleting the portions of land
acquired by Government.

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We regret the delay in forwarding the
documents to you which was due to pressure
of work.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

EXHIBIT "A. B.1" (contd)

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

WP/SE/264A
AFT/H/VH/12054

DREW & NAPIER
SINGAPORE

18th August 1953

Dear Sirs,

Estate of M.A. Reshty deceased
re Land at Perseverance Estate

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw

18th August
1953

10 Further to our letter of the 12th instant, we now return one copy of the lease duly approved together with the plan.

Yours faithfully,

SD. DREW & NAPIER

Messrs. Donaldson & Burkinshaw

Letter - Plaintiffs' Solicitors to
Defendants' Solicitors

AFT/VH/12054

DONALDSON & BURKINSHAW
SINGAPORE

18th August 1953

Letter
Messrs.
Donaldson &
& Burkinshaw
to Messrs.
Drew & Napier

18th August
1953

20 Messrs. Drew & Napier,
Singapore.

Dear Sirs,

Estate of M.A. Reshty, deceased
re: Land at Perseverance Estate

30 We thank you for your letter of the 18th instant, returning one copy of the lease duly approved, together with the plan. We are having the lease engrossed and will send you engrossment for signature by your client in due course.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

Exhibit
"A.B.1"
(contd)

BB/SE/264A
DREW & NAPIER
SINGAPORE

18th August 1953

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw

Dear Sirs,

Estate of M.A. Reshty deceased
Land at Perseverance Estate

18th August
1953

With reference to our letter of today's
date, we assume that you are proceeding with
the necessary application to the Rent Board to
obtain their sanction to the increased rent.

10

Yours faithfully,

SD. DREW & NAPIER

Messrs. Donaldson & Burkinshaw

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew & Napier
27th August
1953

Letter Plaintiffs' Solicitors to
Defendant's Solicitors

AFT VH 12054
DONALDSON & BURKINSHAW
SINGAPORE

27th August, 1953

Dear Sirs,

Estate of M.A. Reshty deceased
re:Land at Perseverance Estate

Further to our letter of the 18th instant,
we now send you herewith engrossment of Lease
(in duplicate) for signature by your client.

20

Yours faithfully,

Enc. SD. DONALDSON & BURKINSHAW

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

BB/TC/264A
YOUR REF:
AFT/VH/12054

DREW & NAPIER
SINGAPORE

31st August, 1953

Dear Sirs,

10

Estate of M.A. Reshty, deceased
re: Land at Perseverance Estate

We thank you for your letter dated 27th August and its enclosed engrossed Lease in duplicate which we return here- with duly executed by our client, receipt of which kindly acknowledge. The Lease has been executed by our client subject to the increased rent being approved by the Control of Rent Board.

Yours faithfully,

20

SD. DREW & NAPIER

Encls:
Messrs. Donaldson & Burkinshaw,
Singapore 1.

Letter - Plaintiffs' Solicitors to
Defendant's Solicitors

AFT/H/VH/12054 DONALDSON & BURKINSHAW
SINGAPORE

1st September, 1953

Messrs. Drew & Napier,
Singapore.

30

Dear Sirs,

Estate of M.A. Reshty, deceased
re: land at Perseverance Estate

We thank you for your letter of the 31st ultimo returning Lease (in duplicate) duly executed by your client and we are now

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw

31st August
1953

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

1st September
1953

Plaintiffs' Exhibits

proceeding to have it executed by our clients.

Exhibit "A.B.1" (contd)

We are also taking the necessary steps to have the increased rent approved by the Control of Rent Board.

Yours faithfully,

Letter Messrs. Donaldson & Burkinshaw to Messrs. Drew & Napier 1st September 1953

SD. DONALDSON & BURKINSHAW

EXHIBIT "A.B.1" (contd)

Letter Messrs. Drew & Napier to Syed Ahmed bin Alwee Aljunied 12th November 1957

Letter - Defendant's Solicitors to first Plaintiff

10

DREW & NAPIER SINGAPORE

12th November, 1957

Syed Ahmed bin Alwee Aljunied, 108 Rochore Road, Singapore.

Dear Sir,

We have been consulted by our client Mrs.M.K. Reshty in connection with the Lease of Geylang Serai dated the 28th September 1953, which will terminate on the 31st March 1958.

20

In the above circumstances, we have been requested to write to you requesting that this Lease be renewed, and to inquire the terms upon which the Trustees would be willing to do. It is of course agreed that the terms of the Lease would be the same as that now existing, but it is desired to inquire more particularly the term which could be granted subject always to the proviso contained in Clause 2 and the amount of the monthly rent.

30

We have not written to Mr. J. H. Phillips who has now retired from the Colony, as we do not know whether he is still a Trustee, or whether on his retirement another Trustee was appointed. If the latter is the case, we should be obliged if you would kindly forward the carbon copy of this letter to him, and inform us in due course of his name and address.

10

Yours faithfully,

SD. DREW & NAPIER

Plaintiffs' Exhibits

Exhibit "A.B.1" (contd)

Letter Messrs. Drew & Napier to Syed Ahmed bin Alwee Aljunied

12th November 1957

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors to Defendant's Solicitors

DONALDSON & BURKINSHAW SINGAPORE

CHS/MK/23599 YOUR REF: WP/ME

28th November, 1957

Letter Messrs. Donaldson & Burkinshaw to Messrs. Drew & Napier

28th November 1957

20

Messrs. Drew & Napier. Singapore.

Dear Sirs,

re Mrs. M.K. Reshty - Lease of land at Geylang Serai

Your letter of the 12th instant addressed to Mr. Syed Ahmed bin Alwee Aljunied has been handed to us for attention.

30

Mr. Syed Ahmed bin Alwee Aljunied is one of the three trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff deceased on whose behalf we act.

Our clients instruct us to inform you that they are not willing to renew the Lease in favour of Mrs. M.K. Reshty. Your client

Plaintiffs' Exhibits

must therefore, in accordance with the terms of the Lease, yield up the demised premises with all buildings erected thereon on the 31st March next.

Exhibit "A.B.1" (contd)

Yours faithfully,

Letter Messrs. Donaldson & Burkinshaw to Messrs. Drew & Napier

SD. DONALDSON & BURKINSHAW

28th November 1957

EXHIBIT "A.B.1" (contd)

Letter Messrs. Drew & Napier to Trustee of the Estate of Syed Ahmed bin Abdulrahman Alsagoff deceased

Letter - Defendant's Solicitors to the Trustee of the Estate of Syed Ahmed bin Abdulrahman Alsagoff deceased

DREW & NAPIER SINGAPORE

10

CHWP/JS/264B BF/BB.3518

28th February, 1958

28th February 1958

The Trustee of the Estate of Syed Ahmed bin Abdulrahman Alsagoff deceased, c/o R.D. Stewart Esq., Hongkong Bank Chambers, Singapore.

Dear Sir,

Perseverance Estate - Geylang Serai

20

We have again been consulted by Mrs. M.K. Reshty in connection with her request for a renewal of the lease of the above property and understand that it is the wish of the trustees to increase the rent payable but without entering into a formal lease. It is extremely difficult for obvious reasons for our Client to agree to increased rent subject to termination at any time, and, in these circumstances, it is requested that favourable consideration be given to the execution of another lease at an agreed increased rent.

30

Yours faithfully,

SD. DREW & NAPIER.

EXHIBIT "A.B.1" (contd)

Letter - Trustee of Estate of Syed Ahmed bin Abdulrahman Alsagoff to Defendant and Others

COPY

THE ESTATE OF SYED AHMED BIN ABDULRAHMAN ALSAGOFF (DECEASED)

RDS/TP

P.O. BOX No. 384
HONGKONG BANK CHAMBERS,
SINGAPORE 1

21st March, 1958

Dear Sir,

Erection of New Temporary Buildings

Originating Summons No. 130 of 1957 was heard in open Court on the 12th instant, when the Judge decided that the Trustees should not accede to any requests from lessees for permission to erect new temporary building on the Estate. I now write to give you formal notice of this and to confirm that no further applications will be considered by the Trustees.

Unauthorised Houses

The Trustees would also appreciate if you would let them have, at your early convenience, full particulars of any unauthorised houses at present on the land leased to you.

Yours faithfully,

SD. R. D. STEWART

BIN ABDULRAHMAN ALSAGOFF (DECEASED)

Mr. Tan Yee Wan
Mr. Yap Chin Min
Mrs. M.K. Reshty
Executor, Estate of Lim Beng Teck, decd.
Young Men Muslim Association

Plaintiffs' Exhibits

Exhibit "A.B.1" (contd)

Letter Trustee of the Estate of Syed Ahmed bin Abdulrahman Alsagoff to Mrs. M.K. Reshty and Others

21st March 1958

10

20

30

Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Exhibit
"A.B.1"
(contd)

Letter - Trustee of the estate of
Syed Ahmed bin Abdulrahman Alsagoff
(deceased) to Defendant's Solicitors

THE ESTATE OF SYED AHMED BIN
ABDULRAHMAN ALSAGOFF (DECEASED)

Letter
Trustee of
the estate of
Syed Ahmed
bin Abdul-
rahman Alsagoff
(deceased) to
Messrs. Drew
& Napier
21st March
1958

P.O. BOX No. 384,
SINGAPORE

21st March, 1958

Messrs. Drew & Napier,
Chartered Bank Chambers,
SINGAPORE.

10

Your ref: CHWP/JS/264B

BF/BB.3516

Dear Sirs,

Perseverance Estate -
Geylang Serai

I refer to your letter of 28th ultimo
which was considered at meeting of the
Trustees this afternoon. It is intended
to get in touch with Mr. Reshty in the
immediate future for the purpose of further
discussion on this matter.

20

Yours faithfully,

SD. R.D. STEWART

R.D. STEWART

TRUSTEES FOR THE ESTATE OF SYED AHMED
BIN ABDULRAHMAN ALSAGOFF (DECEASED)

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to
Trustees of estate of Syed Ahmed bin
Abdulrahman Alsagoff (deceased)

CHWP/JS/40-58

DREW & NAPIER
SINGAPORE

14th April, 1958

The Trustees of the Estate of Syed
Ahmed Alsagoff,
c/o Messrs. Turquand Youngs & Co.,
SINGAPORE

10

Dear Sirs,

Renewal of Lease

Your letter of the 9th of April last
addressed to Mr. M.A.A. Reshty has been
given to us by our client, Mr. Reshty with
whom we have discussed the matter at length.

20

It is regretted that our Client cannot
agree to a higher rent being payable for the
property at Geylang Serai unless the Trustees
are able to grant a lease thereof. It is,
however, suggested that this is a matter
which might form a conference between the
Trustees, Mr. Reshty and the Writer, which
might prove of benefit to all parties
concerned.

30

We are also requested by Mr. Reshty to
acknowledge receipt of your letter of the
21st of March last and, as you know, Mr.
Reshty is doing his best to let you have full
particulars of any unauthorised houses and
indeed he is appearing in a case this week to
give evidence in respect of such premises on
behalf of the City Council, who have taken
the necessary proceedings for a closing
order and demolition.

Yours faithfully,

SD. DREW & NAPIER

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs. Drew
& Napier to
Trustees of
the estate of
Syed Ahmed
bin Abdulrahman
Alsagoff
(deceased)

14th April
1958

Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Exhibit
"A.B.1"
(contd)

Letter - Trustees of the estate of
Syed Ahmed bin Abdulrahman Alsagoff
deceased to Defendant's Solicitors

Letter
Trustees of
the estate of
Syed Ahmed bin
Abdulrahman
Alsagoff
(deceased)
to Messrs.
Drew & Napier
16th April
1958

THE ESTATE OF SYED AHMED BIN
ABDULRAHMAN ALSAGOFF (DECEASED)

P.O. BOX NO. 384
SINGAPORE

16th April, 1958

Messrs, Drew & Napier,
Chartered Bank Chambers,
SINGAPORE 1.

10

Attention of Dr. C.H.
Withers-Payne

Dear Sir,

Mr. M.A.A. Reshty -
Renewal of Lease

I acknowledge your letter of the 14th
instant and agree with your suggestion that
a meeting should be held between yourself, Mr.
Reshty and the Trustees to discuss the above
matter. The afternoon of the 23rd or 24th
of April will be suitable to the Trustees
and I shall be obliged if you will let me know
if either of these times will be convenient
to yourself.

20

Yours faithfully,

SD. R.D. STEWART

R. D. STEWART

TRUSTEES FOR THE ESTATE OF SYED AHMED
BIN ABDULRAHMAN ALSAGOFF (DECEASED)

30

EXHIBIT "A.B.1" (contd)

Minutes of Meeting between
Trustees of Estate of Syed Ahmed
bin Abdulrahman Alsagoff
(deceased) and Mrs. Reshty and
Another

Plaintiffs'
Exhibits

—
Exhibit
"A.B.1"
(contd)

24th April 1958, at 2.15 p.m.

Present:- Syed Ahmed bin Alwee
Al-Junied
Dato Syed Ahmed bin
Mohamed Alsagoff
R.D. Stewart Esq.

Minutes of
Meeting between
Trustees of
Estate of Syed
Ahmed bin
Abdulrahman
Alsagoff
(deceased) and
Mrs. Reshty and
Another

In attendance:-

M.A.A. Reshty, Esq.
Dr. C.H. Withers-Payne

24th April
1958

RENEWAL OF MRS. RESHTY'S TENANCY

The Trustees had already indicated that they were only prepared to grant a monthly tenancy but stated that they would be willing to write to Mr. Reshty or to his solicitors stating that it was not their intention to give notice of termination effective prior to the 31st December 1960.

The question of increased rent had been discussed by Mr. Reshty and Dato Syed Ahmed bin Mohamed Alsagoff, but figures had not been mentioned. Mr. Reshty then stated that he would be prepared to pay a monthly rental of \$1,400, provided of course that this figure was approved by the Rent Board. The Trustees said that they would consider this and give an answer as soon as possible.

Dr. C.H. Withers-Payne and Mr. Reshty then left the meeting.

After further discussion, it was

Plaintiffs'
Exhibits

decided that Mr. Reshty's offer of \$1,400 per month was acceptable and Mr. Stewart undertook to instruct Messrs. Donaldson & Burkinshaw to make the necessary application to the Rent Board.

Exhibit
"A.B.1"
(contd)

58/39. LAND PREVIOUSLY LEASED TO TAY CHENG HAK, DECEASED

Minutes of
Meeting between
Trustees of
Estate of Syed
Ahmed bin
Abdulrahman
Alsagoff
(deceased) and
Mrs. Reshty
and Another

24th April
1958

EXHIBIT "A.B.1" (contd)

Letter
Trustees of
estate of
Syed Ahmed
bin Abdul-
rahman
Alsagoff
(deceased)
to

Letter - Trustees of estate of Syed
Ahmed bin Abdulrahman Alsagoff
(deceased) to Defendant's Solicitors

10

THE ESTATE OF SYED AHMED BIN
ABDULRAHMAN ALSAGOFF (DECEASED)

RDS/TP 24th April, 1958

Dr. C.H. Withers-Payne,
Messrs. Drew & Napier,
Chartered Bank Chambers,
SINGAPORE.

Dear Sir,

Land leased to Mrs. Reshty

20

I refer to our discussion of this afternoon and have to advise that the offer of \$1,400/- per month, subject to approval by the Rent Board, is acceptable to the Trustees. I am instructing our solicitors, Messrs. Donaldson & Burkinshaw, to the necessary application to the Rent Board and no doubt you will be hearing from them in

this matter. Provided the approval of the Rent Board is obtained and the whole matter thus satisfactorily concluded, I am to confirm that it is not the intention of the Trustees to give Mrs. Reshty notice of termination of the monthly tenancy effective prior to 31st December, 1960.

Yours faithfully,

Sd.

R.D. STEWART

Trustee for the Estate of Syed Ahmed bin Abdulrahman Alsagoff (deceased)

Plaintiffs' Exhibits

Exhibit "A.B.1" (contd)

Letter Trustees of estate of Syed Ahmed bin Abdulrahman Alsagoff (deceased) to

24th April 1958

10

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to Trustees of the estate of Syed Ahmed bin Abdulrahman Alsagoff (deceased)

Letter Messrs. Drew & Napier to R.D. Stewart

28th April 1958

20

WP/JL/PM/40-58

DREW & NAPIER SINGAPORE

28th April, 1958

R.D. Stewart, Esq., P.O. BOX 384, Hongkong Bank Chambers, Singapore.

Dear Sir,

Syed Ahmed Alsagoff's Estate Geylang Serai

30

I thank you for your letter of 24th April last following our interview on that afternoon, and am much obliged for the contents thereof which I have communicated to Mrs. Reshty.

Plaintiffs'
Exhibits

No doubt you will write us later reporting the result of the application to the Rent Board, and we of course confirm that our Client will be prepared to consent to the rent being fixed at \$1,400 per month. If any written consent is required no doubt Messrs. Donaldson & Burkinshaw will write us with the form for signature by our Client.

Exhibit
"A.B.1"
(contd.)
Letter
Messrs. Drew
& Napier to
R.D. Stewart

Yours faithfully,

28th April
1958

SD. DREW & NAPIER

10

EXHIBIT "A.B.1" (contd)

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew & Napier

Letter - Plaintiffs' Solicitors
to Defendant's Solicitors

COPY

29th April, 1958

29th April
1958

Messrs. Drew & Napier
Singapore.

Dear Sirs,

Estate of Syed Ahmad bin Abdulrahman
Alsagoff, decd.
Land leased to Mrs. Reshty

20

We act for the Trustees of the above estate and we understand that you act for Mr. Reshty and that negotiations have taken place between your client and our clients for a monthly tenancy of the land formerly leased to Mrs. Reshty which lease has expired.

We understand the position to be that on the land in question there are a number of houses which are subject to the Control of Rent Ordinance 1953 and also a number of houses which have been erected subsequent to the year 1947 and to which the Control of Rent

30

Ordinance does not apply. It seems desirable that some distinction should be made between the two categories of properties. Therefore, we have advised our clients to enter into tenancies on the following basis:-

Plaintiffs"
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew & Napier

29th April
1958

10

- (i) A monthly tenancy at the rent of \$750/- per month in respect of the land on which all houses erected prior to 1947 exist.
- (ii) A tenancy at the rent of \$650/- per month in respect of all other land and including land on which houses erected subsequent to 1947 exist.

Please let us know if your client is prepared to accept a monthly tenancy on the above terms.

Yours faithfully,

20

Sd. Donaldson & Burkinshaw

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors
to Plaintiffs' Solicitors

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw
15th May 1958

CHWP/JS/40-58
Your Ref:CHS/MIC

15th May, 1958

Messrs. Donaldson & Burkinshaw,
SINGAPORE.

Dear Sirs,

30

Estate of Syed Ahmad bin Abdulrahman
Alsagoff deceased
Land lease to Mrs. Reshty - Geylang Serai

Fu ther to our letter of the 30th April it is regretted that it is not possible to distinguish the two classes of property in the

Plaintiffs'
Exhibits

—
Exhibit
"A.B. 1"
(contd)

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw
15th May 1958

manner suggested in items 1 and 2 of your letter, in that the parcels of land under each item are intermingled, and, without a survey and length schedules, it will be quite impossible to deal with the matter on the basis suggested. There is a further consideration that in fact our Client does not receive \$650/- in respect of land on which houses have been erected subsequent to 1947.

10

Our Client is preparing a list of the houses falling within items 1 and 2 so far as this is possible, his difficulty being that the Trustees have the necessary information, in that they signed the plans for the erection of new premises and do not always report this to Mr. Reshty. Presumably therefore the Trustees themselves have at least a list of the houses falling under item 2.

20

Yours faithfully,

SD. DREW & NAPIER

EXHIBIT "A.B.1" (contd)

Plaintiffs'
Exhibits

Letter - Plaintiffs' Solicitors to
Defendant

REGISTERED A.R.
APG/H/BDS/27069

21st September 60

Exhibit
"A.B.1"
(contd)

Mrs. M.K. Reshty,
6, Gilstead Road,
Singapore 11.

Letter
Messrs.
Donaldson &
Burkinshaw to
Mrs. M.K.
Reshty

Dear Madam,

21st September
1960

10 Estate of Syed Ahmed bin Abdulrahman
Alsagoff, deceased.
re: Perseverance Estate.

We have been instructed to refer you to our letter of the 23rd of December 1959 requesting you to furnish particulars of occupancy relating to the land at Perseverance Estate of which you are our clients' tenant and we wrote you reminders on the 18th of January and the 13th of February 1960.

20 We received your letter of the 20th of February 1960 informing us that the matter was receiving your attention and, as soon as a list was compiled, you would forward it to us.

We informed you, on the 23rd of February, that our clients are desirous of obtaining the particulars of occupancy, as soon as possible, and we requested you to give this matter your early attention.

30 We again wrote you, on the 16th of March 1960, informing you that unless you furnished us with the information required within seven days from the date thereof, our clients would be forced to take such steps in the matter as they may be advised.

We wrote you again on the 6th of April 1960 enquiring as to when you expected to furnish our clients with particulars of

Plaintiffs'
Exhibits

occupancy as our clients are preparing for the distribution of the estate of the above-named deceased.

Exhibit
"A.B.1"
(contd)

We regret to point out that, although on the 20th of February 1960 you informed us you would be forwarding to us particulars of occupancy, up to the moment, you have not done so.

Letter
Messrs.
Donaldson &
Burkinshaw to
Mrs. M.K.
Reshty
21st
September
1960

We have now been instructed to and do hereby give you notice under the provisions of Section 21 of the Control of Rent Ordinance (Chapter 242) to supply us, on behalf of our clients, with particulars of occupancy relating to the land at Perseverance Estate of which you are our clients' tenant and, unless the particulars of occupancy are furnished to us within seven (7) days from the date hereof our instructions are to apply for a Summons against you.

10

Yours faithfully,

20

Sd: Donaldson & Burkinshaw

EXHIBIT "A.B.1" (contd)

Letter
Mrs. M.K.
Reshty to
Messrs.
Donaldson &
Burkinshaw
24th
September
1960

Letter - Defendant to Plaintiffs'
Solicitors

REGISTERED

MRS. M.K. RESHTY

6, Gilstead Road, Singapore

Your Ref:
APG/H/BDS/27069

24th September, 1960

Messrs. Donaldson & Burkinshaw,
Mercantile Bank Chambers,
Singapore 1.

30

Dear Sirs,

Estate of Syed Ahmed bin Abdulrahman
Alsagoff, deceased.

Re: Perseverance Estate

I am in receipt of your A.R. registered

107.

letter of the 21st September 1960, for which I thank you.

Plaintiffs'
Exhibits

10 I am sorry that I have been unable to supply you with the particulars for which you ask. Please understand my difficulty - the land in question is occupied by some two thousand sub-tenants. The rent paid ranges from \$1/- per month to \$3/-. There are a very few rents in a higher range. In some cases rents have not been tendered for over a year. In most cases the erections in respect of which rents are payable, have no house numbers fixed on them.

—
Exhibit
"A.B.1"
(contd)

Letter
Mrs. M.K.
Reshty to
Messrs.
Donaldson &
Burkinshaw

24th
September
1960

I am still trying to sort things out, but I regret that this cannot be done in a matter of a weeks time.

I would be pleased to hear from you.

Yours faithfully,

20

MRS. M.K. RESHTY

Sd. M.A.A. Reshty

BY HER ATTORNEY

Plaintiffs' Exhibits

EXHIBIT "A.B.1" (contd)

Notice to Quit - Messrs. Donaldson & Burkinshaw to Mrs. Muchool Khanum Reshty

Exhibit "A.B.1" (contd)

REGISTERED A.R. NOTICE TO QUIT

Notice to Quit Messrs. Donaldson & Burkinshaw to Mrs. Muchool Khanum Reshty 28th September 1960

CHS/MLC

To: MUCHOOL KHANUM RESHTY,
6 GILSTEAD ROAD
SINGAPORE

Tenant of Lot 3²² formerly Lot 1⁴²; Lot 1²⁰; Lot 1²⁶; and Lot 1⁴⁷ formerly Lot 1²⁷ of Mukim XXIII, Singapore, and the buildings erected thereon. 10

AS INSTRUCTED by SYED AHMED BIN ALWEE AL-JUNIED, DATO SYED AHMAD BIN MOHAMED ALSAGOFF and SYED MOHAMED BIN ALI ALSAGOFF, the Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff, deceased, Singapore, we hereby give you notice and demand and require of you that you do on the 31st day of October 1960 (or at the expiration of the month of your tenancy which will expire next after the end of one calendar month from the time of the service of this notice), quit and deliver up to them possession of ALL those four pieces of land situate in the District of Paya Lebar in the Island of Singapore being Lots 3²² formerly Lot 1⁴²; Lot 1²⁰; Lot 1²⁶; and Lot 1⁴⁷ formerly Lot 1²⁷ of Mukim XXIII, Singapore and buildings erected thereon held by you as tenant of them, the said Trustees of the Estate of Syed Ahmed bin Abdulrahman Alsagoff deceased at the monthly rent of Dollars One Thousand Nine Hundred (\$1,900/-). 20 30

AND TAKE NOTICE that in case of any refusal or neglect on your part to comply with this Notice and demand, an action for ejection and/or other legal proceedings will be commenced against you without further notice. DATED at Singapore this 28th day of September, 1960. SD. DONALDSON & BURKINSHAW, Donaldson & Burkinshaw, ADVOCATES AND SOLICITORS OF THE SUPREME COURT OF THE STATE OF SINGAPORE, MERCANTILE BANK CHAMBERS, SINGAPORE 1. 40

EXHIBIT "A.B. 1" (contd)

Plaintiffs' Exhibits

Letter - Defendant's Solicitors to Plaintiff's Solicitors

DREW & NAPIER
SINGAPORE

Exhibit "A.B.1" (contd)

30th September, 1960

Letter Messrs. Drew & Napier to Messrs. Donaldson & Burkinshaw

Dear Sirs,

Lot 3²² formerly Lot 42; Lot 1²⁰;
Lot 1²⁶ ; Lot 47 formerly Lot 1-27 of
Mukim XXIII

30th September 1960

We have been handed a notice to quit dated the 28th September and addressed to our client, Mrs. Muchool Khanum Reshty, the tenant of the abovementioned land, by her attorney, Mr. M.A.A. Reshty.

In a letter dated the 24th April, 1958 addressed to Dr. C.H. Withers-Payne, a former trustee Mr. R.D. Stewart, stated that it was not the intention of the trustees to give our client "notice of termination of the monthly tenance effective prior to 31st December, 1960". It is regretted that, despite this assurance, your clients have instructed you to issue and serve Mrs. Reshty with the present Notice to Quit.

Our client regrets that she is unable to comply with the Notice, and will seek the protection of the Control of Rent Ordinance. Should your clients desire her to pay a high rental, our client is willing to come to an agreement on this question, subject of course to the sanction of the Rent Conciliation Board.

While on the subject of the Rent Conciliation Board, we might point out that its sanction does not appear to have been obtained in respect of previous increases in rent.

If the present notice is intended as a preliminary to proceedings for possession, our client may be compelled to exercise her strict rights and sue for rents paid in excess of the standard rent.

Yours faithfully,
SD. DREW & NAPIER

Messrs. Donaldson & Burkinshaw, Singapore

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30

40

Plaintiffs'
Exhibits

Exhibit "A.B. 1" (contd)

Notice to Quit - Plaintiffs'
Solicitors to Defendant

Exhibit
"A.B.1"
(contd)

REGISTERED A.R.

NOTICE TO QUIT

Notice to
Quit
Messrs.
Donaldson &
Burkinshaw
to Mrs.
Muchool
Khanum
Reshty

TO: MRS. MUCHOOL KHANUM RESHTY,
6 GILSTEAD ROAD, SINGAPORE

Tenant of Lot 3²² formerly Lot 1⁴²; Lot 1²⁰;
Lot 1²⁶; and Lot 1⁴⁷ formerly Lot 1²⁷ of Mukim
XXIII, Singapore, and the buildings erected
thereon.

10

24th
October
1960

AS INSTRUCTED by SYED AHMED BIN ALWEE AL-
JUNIED, DATO SYED AHMAD BIN MOHAMED ALSAGOFF
and SYED MOHAMED BIN ALI ALSAGOFF, the Trustees
of the Estate of Syed Ahmed bin Abdulrahman
Alsagoff, deceased, Singapore, we hereby give
you notice and demand and require of you that
you do on the 31st day of December 1960 (or at
the expiration of the month of your tenancy
which will expire next after the end of one
calendar month from the time of the service of
this notice), quit and deliver up to them
possession of ALL those four pieces of land
situate in the District of Paya Lebar in the
Island of Singapore being Lots 3²² formerly
Lot 1⁴²; Lot 1²⁰; Lot 1²⁶; and Lot 1⁴⁷ formerly
lot 1²⁷ of Mukim XXIII, Singapore and the
buildings erected thereon held by you as tenant
of them, the said Trustees of the Estate of Syed
Ahmed bin Abdulrahman Alsagoff deceased at the
monthly rent of Dollars One Thousand Nine
Hundred (\$1,900/-),

20

30

AND TAKE NOTICE that in case of any refusal
or neglect on your part to comply with this
Notice and demand, an action for ejectment and/or
other legal proceedings will be commenced
against you without further notice.

DATED at Singapore this 24th day of
October, 1960.

SD. DONALDSON & BURKINSHAW

(Donaldson & Burkinshaw)

ADVOCATES AND SOLICITORS OF THE SUPREME COURT OF
THE STATE OF SINGAPORE, MERCANTILE BANK CHAMBERS,
SINGAPORE.

40

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors
to Defendant's Solicitors

DONALDSON & BURKINSHAW
SINGAPORE

24th October, 1960

M/s. Drew & Napier,
Singapore.

Dear Sirs,

10

Notice to Quit served on
Mrs. M.K. Reshty

We thank you for your letter of the 11th instant forwarding a copy of the letter sent by Mr. Stewart to Dr. Withers-Payne. On examining the letter in question we cannot find all the necessary ingredients of a binding agreement. However, to place the matter beyond doubt, we have today sent her a further Notice to

20

Quit to expire at the end of December.

With regard to the contents of your letter to us of the 30th ultimo, you can rest assured that our clients will take the necessary steps to obtain possession. The estate of Syed Ahmed bin Abdulrahman Alsagoff deceased falls due for division next year and it is essential that possession be obtained before then.

Yours faithfully,

30

SD. DONALDSON & BURKINSHAW.

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

24th October
1960

Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors
to Plaintiffs' Solicitors

Exhibit
"A.B.1"
(contd)

DREW & NAPIER
SINGAPORE

Letter
Messrs. Drew
& Napier to
Messrs.
Donaldson &
Burkinshaw
3rd February
1961

3rd February, 1961

Dear Sirs,

Estate of Syed Ahmad bin Abdulrahman
Alsagoff deceased
re: Perseverance Estate

10

We thank you for your letter of the 1st
February.

Our client has paid your clients' legal
fees on one occasion in the past. This was as
a result of the personal appeal of Dato Syed
Ahmed Alsagoff. We enclose herewith a copy of
a letter dated the 8th March which our client's
Attorney wrote, enclosing a cheque for \$43.60
in payment of those costs.

The agreement to pay the costs was clearly
limited to that one instance.

20

Our client has never permitted the erection
of illegal structures on the demised land. It
is to be remembered that the land comprises 600
acres, and that there are 2,000 tenants in
occupation. The construction of unauthorised
buildings by any one of the tenants in
occupation has never been permitted by our client.

You may recall that, some years ago, your
clients applied to Court and obtained an
Order prohibiting the erection of new buildings.
Subsequently not even the reconstruction of
existing buildings was allowed, and the
sub-tenants were only permitted to carry out
repairs. Whenever a sub-tenant sought
permission to reconstruct, he was told by our
client's representatives that under no
circumstances would he be permitted to do so,

30

and that he could only carry out repairs.

With regard to your final paragraph we have instructions to accept service of any proceedings which your clients may be advised to institute.

Yours faithfully,

SD. DREW & NAPIER

Messrs. Donaldson & Burkinshaw,
SINGAPORE.

Plaintiffs'
Exhibits

—
Exhibit
"A.B.1"
(contd)

Letter
Messrs. Drew
& Napier to
Messrs.
Donaldson &
Burkinshaw

3rd February
1961

10

EXHIBIT "A.B.1" (contd)

Notice to Quit - Plaintiffs'
Solicitors to Defendant

NOTICE TO QUIT

To: MRS. MUCHOOL KHANUM RESHTY,
6, Gilstead Road,
Singapore.

Notice to
Quit
Plaintiffs'
Solicitors to
Defendant

23rd February
1961

20

AS INSTRUCTED by SYED AHMED BIN ALWEE
AL-JUNIED DATO SYED AHMAD BIN MOHAMED
ALSAGOFF and SYED MOHAMED BIN ALI ALSAGOFF,
the Trustees of the Estate of Syed Ahmed bin
Abdulrahman Alsagoff, deceased, Singapore,
we hereby give you notice and demand and
require of you that you do on the 31st day of
March, 1961 (or at the expiration of the
month of your tenancy which will expire next
after the end of the calendar month from the
time of the service of this notice) quit and
deliver up to them possession of the whole
of the premises comprised in your tenancy and
including ALL those five pieces of land
situate in the District of Paya Lebar in the
Island of Singapore being part of Lot 322
formerly part of Lot 1-42; Lot 1-52 formerly

30

Plaintiffs'
Exhibits

part of Lot 1-42; lot 1-20; Lot 1-26; and
Lot 1-47 formerly Lot 1-27, of Mukim XXXXX,
Singapore and the buildings erected thereon
held by you as tenant of them the said
Trustees of the Estate of Syed Ahmed bin
Abdulrahman Alsagoff deceased at the
monthly rent of Dollars One Thousand Nine
Hundred (\$1,400/-).

Sic

Exhibit
"A.B.1"
(contd)

Notice to
Quit
Plaintiffs'
Solicitors to
Defendant
23rd February
1961

AND TAKE NOTICE that in case of any
refusal or neglect on your part to comply
with this Notice and demand, an action for
ejectment and/or other legal proceedings will
be commenced against you without further
notice.

10

DATED at Singapore this 23rd day of
February, 1961.

SD. DONALDSON & BURKINSHAW

ADVOCATES AND SOLICITORS OF THE
SUPREME COURT OF THE STATE OF
SINGAPORE
MERCANTILE BANK CHAMBERS
SINGAPORE

20

Received Original
Notice to Quit

Sd. M.A.A. RESHTY

BY HER ATTORNEY 24/2/61

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors
to Defendant's Solicitors

DONALDSON & BURKINSHAW

SINGAPORE

BJMD/MLC/30729

4th July, 1962

Messrs. Drew & Napier,
Singapore.

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

4th July
1962

10 Dear Sirs,

Estate of Syed Ahmed bin
Abdulrahman Alsagoff decd.
re- Perseverance Estate
Mrs. M.K. Reshty
Summonses Nos. 959, 960
and 961.

20

We beg to inform you that on the 12th
October 1961 we informed your client, Mrs.
M.K. Reshty, that our clients, the Trustees
of the estate of the abovenamed deceased,
had been served with General Notice No.14203
by the Building Surveyor, Rural Board, to
the effect that a row of barrack houses of
hollow bricks, plank walls and attap roof
comprising of 4 units had been erected next
to House No. 772 Jalan Ubi, for which no
plans or specifications have been approved
by the Chairman, Rural Board, Singapore in
contravention of the provisions of Section
144 (7) of the Municipal Ordinance
30 (Chapter 133) and under Section 144 (12)
thereof our clients are liable to
prosecution.

Our clients have now received Summonses
Nos. 959, 960 and 961 to the effect that on
or about 12.9.1961 building operations
commenced involving the erection of a
building, to wit:- a row of terrace houses,
comprising of 4 units and constructed of

Plaintiffs'
Exhibits

—
Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

4th July
1962

timber posts, plank walls, brick dado (3'6") and corrugated iron roof on the above-mentioned land for which no plans or specifications have been approved by the Chairman Rural Board, Singapore being an offence under Section 144 (7) and punishable under Section 144 (10) of the Municipal Ordinance Chapter 133. Our clients are required to show cause why a Mandatory Order should not be made against our clients to comply with the Rural Board requirements or to demolish the said building under Section 144 (10) of the Municipal Ordinance.

10

The Summonses are fixed for hearing on Tuesday, the 10th July 1962 at 10 a.m. before the Ninth Magistrates Court, South Bridge Road.

We are also instructed to inform you that our clients will hold your client responsible for all costs and expenses incurred by our clients in respect of the said unauthorised buildings erected on part of our clients' land at Perseverance Estate of which your client is the tenant.

20

Yours faithfully,

SD. DONALDSON & BURKINSHAW

EXHIBIT "A.B.1" (contd)

Letter -- Defendant's Solicitors to
Plaintiffs' Solicitors

DREW & NAPIER
SINGAPORE

2nd September, 1963

Messrs. Donaldson & Burkinshaw,
Singapore

Dear Sirs,

10 re: Perseverance Estate

We thank you for your letter of the 29th
August.

We do not think you quite appreciate the
position.

The land demised to our Client comprises
some 600 acres. There are hundreds of
tenants. The administration of the land is in
the hands of our Client's son, and three rent
collectors.

20 Their work is cut out issuing rent receipts,
chasing arrears in rent, settling squabbles
between tenants and trying to check the illegal
erections of buildings on the land.

Despite their efforts illegal structures
are no doubt, from time to time put up. By
their nature, these structures are capable of
being erected over night, as you well know. We
believe there are contractors who specialise in
this sort of thing.

30 Our Clients has never acquiesced. As
previously stated, she does not receive rent
from the occupiers of illegal structures.

Yours faithfully,

SD. DREW & NAPIER

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Drew & Napier
to Messrs.
Donaldson &
Burkinshaw

2nd September
1963

Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

Exhibit
"A.B.1"
(contd)

DREW & NAPIER
SINGAPORE

13th January, 1964

Messrs. Donaldson & Burkinshaw,
Singapore.

Letter
Messrs. Drew
& Napier to
Messrs.
Donaldson &
Burkinshaw

Dear Sirs,

Suit No. 368 of 1961

13th January
1964

We refer to your letter of the 30th
December, 1961 in connection with these
proceedings, and particularly to the third
paragraph thereof, wherein you state that
in the trial of this action your Clients
will only rely on the alleged illegal
erections and additions referred to in
paragraph 9 (a) of the Statement of
Claim.

10

Some of the buildings referred to in that
paragraph are not sufficiently particularised,
in that no mention is made of any number.
Accordingly, our client is unable to identify
the buildings in question, and we do hereby
request the following further and better
particulars -

20

Under paragraphs 9 (a) (i), (ii), (iii), (x)
& (xi)

The numbers of the buildings referred to
under the aforesaid paragraphs.

Will you kindly let us have these
particulars within the next seven days.

30

Yours faithfully,

SD. DREW & NAPIER

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors to
Defendant's Solicitors

DONALDSON & BURKINSHAW
SINGAPORE

16th January, 1964

Messrs. Drew & Napier,
Singapore.

Dear Sirs,

Suit No. 368 of 1961

Alsagoff Estate vs. Mrs.
M.K. Reshty

We thank you for your letter of the 13th instant. Unfortunately our clients have no knowledge of the buildings referred to. We understand that where illegal buildings are constructed no numbers are allotted to them. In the circumstances, we wonder whether you still wish our clients to file particulars to the effect that they have no knowledge of the numbers.

Please let us hear from you at your early convenience.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew & Napier

16th January
1964

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Plaintiffs'
Exhibits

EXHIBIT "A.B.1" (contd)

Letter - Defendant's Solicitors to
Plaintiffs' Solicitors

Exhibit
"A.B.1"
(contd)

DREW & NAPIER
SINGAPORE

Letter
Messrs. Drew
& Napier to
Messrs.
Donaldson &
Burkinshaw

18th January, 1964

Messrs. Donaldson & Burkinshaw,
Singapore

Dear Sirs,

18th January
1964

Suit No. 368 of 1961
Alsagoff Estate vs.
Mrs. M.K. Reshty

10

We thank you for your letter of the 16th
January.

Since the buildings in question will be
relied upon at the trial of this action as
constituting breaches on our Client's part of
the terms of the statutory tenancy we think
our Client is entitled to have the buildings
identified.

20

Would you be so good, therefore, as to ask
your Clients to obtain particulars of the
buildings concerned from the Chief Building
Surveyor's office, and file particulars
thereof in the form of a pleading as soon as
possible.

Yours faithfully,

SD. DREW & NAPIER

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors to
Defendant's Solicitors

DONALDSON & BURKINSHAW
SINGAPORE

21st January, 1964

Messrs. Drew & Napier,
Singapore.

Dear Sirs,

Suit No. 368 of 1961
Alsagoff Estate vs. Mrs. M.K. Reshty

We have now had an opportunity to study the Answers to the Interrogatories filed on the 11th instant. We feel that Answer to Interrogatory No. 9 is insufficient. Part of the question was, "What title, if any, has the Defendant to the premises at No. 6, Gilstead Road?". The answer was, "The premises at No. 6, Gilstead Road are owned by the estate of the Defendant's late husband, M.A. Reshty deceased" and "the Defendant resides therein free of rent". We are unable to discover from the Answer as to whether or not the Defendant has any title to the property either legal or equitable and we should be grateful if you could file a further answer in connection with this answer.

We have your letter of the 18th instant and we shall make every effort to give you the information you require.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw to
Messrs. Drew
& Napier

21st January
1964

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Plaintiffs' Exhibits

EXHIBIT "A.B.1" (contd)

Letter - Plaintiffs' Solicitors to Defendant's Solicitors

Exhibit "A.B.1" (contd)

DONALDSON & BURKINSHAW SINGAPORE

Letter Messrs. Donaldson & Burkinshaw to Messrs. Drew & Napier

5th February, 1964.

Messrs. Drew & Napier Singapore

Dear Sirs,

re: Suit No. 368 of 1961

5th February 1964

10

Thank you for your letter of the 4th instant. We are most grateful for the information contained in this letter.

There seems to be some mis-understanding with regard to Mr. Duff's request concerning the list of tenants on the demised land. All we really want to do is to have inspection once more of the documents we have already seen so that we may take copies thereof.

With regard to the final paragraph of your letter we have to inform you that we have been in touch with the Chief Building Surveyor's Department and Mr. Duff has attended at that office in an effort to find out the City Council numbers allotted to the buildings referred to in the pleadings. We are informed that there are no such numbers. To confirm the position we have also written to the City Assessor but as yet we have had no reply. We understand that the Building Inspectors responsible for the issue of the Summonses against our clients have made sketch plans of their own but we are not in possession of the documents. However, we do intend calling the Inspectors as witnesses and no doubt they will produce their plans. The point is that we simply have no further information about these buildings although we have made every effort to acquire it.

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30

The Summonses and Notices issued to our clients in respect of these buildings are available for your inspection at this office at any time.

Yours faithfully,

SD. DONALDSON & BURKINSHAW

EXHIBIT "A.B.3"

One sample of rent receipts

WITHOUT PREJUDICE TO THE NOTICE
TO QUIT

THE ESTATE OF SYED AHMED BIN ABDULRAHMAN ALSAGOFF (DECEASED) You are expressly prohibited from subletting the premises or any part thereof.

No. 1357 30th November, 1961

RECEIVED from Mrs. M.K. Reshty 6, Gilstead Road, Singapore Dollars One thousand four hundred only (\$1,400/-) being rental of land grass & coconuts Geylang Serai for the month ending 30th November, 1961.

Collector's
Signature
and date
payment

Stamp
28.11.61

Secretaries &
Accountants.

No receipt is valid unless signed by the Secretaries & Accountants and countersigned by the Collector.

Plaintiffs'
Exhibits

Exhibit
"A.B.1"
(contd)

Letter
Messrs.
Donaldson &
Burkinshaw
to Messrs.
Drew & Napier

5th February
1964

Exhibit
"A.B.3"

One sample of
rent receipt
Estate of
Syed Ahmed
bin
Abdulrahman
Alsagoff
to Mrs. M.K.
Reshty

28th November
1961

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ON APPEAL FROM
THE FEDERAL COURT OF MALAYSIA
HOLDEN AT SINGAPORE
(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.111 of 1964
SINGAPORE HIGH COURT SUIT NO.368 of 1961

B E T W E E N :

1. SYED AHMED BIN ALWEE AL-JUNIED
 2. DATO SYED AHMAD BIN MOHAMED ALSAGOFF
 3. SYED MOHAMED BIN ALI ALSAGOFF
(Trustees of the estate of Syed Ahmed bin
Abdulrahman Alsagoff, deceased) Appellants
- and -
- MUCHOOL KHANUM RESHTY (Widow) Respondent

AND B E T W E E N :

- MUCHOOL KHANUM RESHTY (Widow) Appellant
- and -
1. SYED AHMED BIN ALWEE AL-JUNIED
 2. DATO SYED AHMAD BIN MOHAMED ALSAGOFF
 3. SYED MOHAMED BIN ALI ALSAGOFF
(Trustees of the estate of Syed Ahmed bin
Abdulrahman Alsagoff, deceased) Respondents

R E C O R D O F P R O C E E D I N G S

Messrs. Speechly Mumford & Soames,
10 New Square,
Lincoln's Inn,
London, W.C.2.

Solicitors for the Appellants

Messrs. Linklaters & Paines,
Barrington House,
59/67 Gresham Street,
London, E.C.2.

Solicitors for the Respondents