

Judgment 17, 1971.

17

No. 40 OF 1970

Supreme Court of Ceylon,  
No. 156 (Interlocutory) of 1966.

District Court of Colombo,  
Case No. 9039/MB.

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

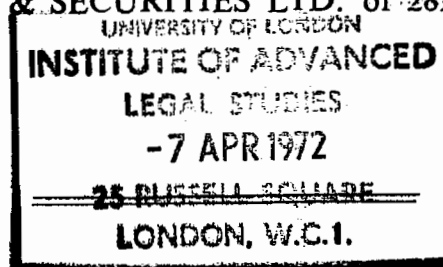
**BETWEEN**

**THE JUPITER CIGARETTE & TOBACCO CO. LTD. of  
Lady Catherine Group, Ratmalana.**

**(Defendant - Respondent)  
APPELLANT**

**Vs**

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenland Avenue,  
Havelock Town, Colombo.
2. H. R. FERNANDO & CO. LTD. of No. 131, City Mission Building,  
Dam Street, Colombo 12.
3. CEYLON FINANCE & SECURITIES LTD. of 282, Grandpass Road,  
Colombo 14.



**(Plaintiffs - Appellants)  
RESPONDENTS**

**RECORD  
OF PROCEEDINGS**

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**JOURNAL ENTRIES**

**IN THE DISTRICT COURT OF COLOMBO**

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69

No. 9039/MB  
Class: V.  
Amount: Rs. 125,000/-  
Nature: Mortgage  
Procedure: Regular.

- 10 1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo.
- 2. H. R. FERNANDO & Co., LTD., of 131, City Mission Building, Dam Street, Colombo 12.
- 3. CEYLON FINANCE & SECURITIES LTD., of 282, Grandpass Road, Colombo 14.

*Plaintiff.*

*Vs.*

THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED of Lady Catherine Group, Ratmalana.

*Defendant.*

20

**JOURNAL**

The 29th day of November, 1963.  
Muthucumaran Ranganathan files appointment and Plaint together with Documents marked.

- 1. Plaint accepted.
- 2. File declaration and move.

Sgd. PERCY N. SENARATNE  
*Additional District Judge.*  
4-12-63

(2)  
30 24-12-63

Proctor for Plaintiffs files declaration.

- 1. No parties disclosed.
- 2. Issue Summons on Defendant for 13-2-64.

Intld. ....  
*District Judge.*  
24-12-63

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

(3)  
15-1-64  
Summons tendered.  
Stamps short. Not issued.

Intld. ....

(4)  
1-2-64  
Summons issued on Defendant—W. P.

Intld. ....

(5)  
13-2-64  
Summons not served on Defendant.  
Reissue for 19-3-64 for service on the Manager or Director of the Defendant  
Company.

10

Sgd. PERCY N. SENARATNE  
*Additional District Judge.*  
13-2-64

(6)  
20-2-64  
Summons reissued on Defendant—W. P.

20

Intld. ....

(7)  
19-3-64  
Mr. M. Ranganathan for Plaintiff. Summons served on Defendant. Proxy of  
Defendant filed by Mr. A. Clive Abeyewardena.  
Answer on 7-5-64.

Intld. ....  
*Additional District Judge.*  
19-3-64

30

(8)  
7-5-64  
Answer on 11-6-64.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
7-5-64

(9)  
11-6-64  
Answer filed.  
Trial on 31-8-64.

Intld. A. E. R. COREA  
*Additional District Judge.*  
11-8-64

40

(10)

19-6-64

Proctor for Plaintiffs for reasons stated moves that the court be pleased to refix the date of Trial.

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

Proctor for Defendant consents and requests that the case be called on 29-6-64.

Call on 29-6-64.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
20-6-64

10

(11)

29-6-64

Mr. M. Ranganathan for Plaintiffs.

Mr. A. Clive Abeyewardena for Defendant.

Case called — Vide Journal Entry (10) to refix date of Trial.

1. Trial refixed for 12-10-64.
2. Take case off Trial Roll of 31-8-64.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
29-6-64

20

(12)

27-8-64

Proctor for Plaintiffs moves for leave of Court to administer the Interrogatories on E. A. P. Edirisinghe, a Director of Defendant Company.

He further moves that the said interrogatories be served on the said Edirisinghe by serving same on the Defendant Company's Proctor, Mr. A. C. Abeyewardena of Hulftsdorf Street, Colombo.

Allowed.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
4-9-64

30

(13)

7-9-64

Interrogatories issued on E. A. P. Edirisinghe, Director, through his Proctor.

Intld. ....



No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

(14)  
22/28-9-64

Proctor for Defendant files answer of the Director of the Defendant Company to the interrogatories by Affidavit and moves that the same be accepted. Copy left at Proctor for Plaintiffs' office.

Stamp deficiency.

1. Deficiency of stamps Rs 35/- due on answer.
2. File.

Sgd. A. E. R. COREA  
*Additional District Judge.* 10  
29-9-64

(15)  
23/28-9-64

Proctor for Plaintiffs with notice to Proctor for Defendant files list of witnesses and documents and moves for Summons.

1. File.
2. Issue Summons on witnesses.

Intld. A. E.R. COREA  
*Additional District Judge.* 20  
29-9-64

(16)  
1-10-64

16 Subpoenas tendered by Plaintiff. Stamps short not issued.

Intld. ....

(17)  
1-10-64

10 Subpoenas issued by Plaintiff—W. P.

Intld. ....

(18)  
30-9-64  

---

5-10-65

30

Proctor for Defendant with notice to Proctor for Plaintiffs files a list of witnesses and documents and move for Summons on witnesses.

1. File.
2. Issue Summons on witnesses.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
6-10-64

(19)  
6-10-64  
5 Subpoenas issued by Defendant—W. P.

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

Intld. ....

(20)  
8-10-64  
Proctor for Plaintiffs with notice to Proctor for Defendant files Plaintiff's additional list of documents.

File.

10

Sgd. A. E. R. COREA  
*Additional District Judge.*  
9-10-64

(21)  
12-10-64  
Mr. Samarakoon with Mr. Wadugodapitiya instructed by Mr.M.Ranganathan for Plaintiffs.

Mr. Renganathan with Mr. B. J. Fernando instructed by Mr. A. C. Abeyewardena for Defendant.

Trial (1).

20 Call case on 19-10-64

in 'E' Court to refix trial.

Sgd. S. R. Wijayatilake  
12-10-64

(22)  
19-10-64  
Mr. M. Ranganathan for Plaintiffs.  
Mr. A. C. Abeyewardena for Defendant.  
Case called — *Vide* Journal Entry (21) to refix Trial.

Trial refixed for 26-2-65.

30

Sgd. A. E. R. COREA  
*Additional District Judge.*  
19-10-64

(23)  
10-2-65  
Nine Summonses issued to Witnesses by Plaintiff.

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

(24)

26-2-65

Mr. Advocate N. Samarakoon, instructed by Mr. Ranganathan for Plaintiff.  
Mr. Advocate C. Renganathan with Mr. Advocate B. J. Fernando, instructed  
by Mr. A. C. Abeyewardena for Defendant.

Trial (2)

No time — Trial refixed for 13-7-65 and 14-7-65.

Sgd. A. E. R. COREA  
Additional District Judge.  
26-2-65

10

(25)

21-4-65

Proctor for Defendant with notice to Proctor for Plaintiffs files Defendants' additional list of witnesses and documents and moves for Summons on witnesses.

1. File.
2. Cite witnesses.

Sgd. ....  
Additional District Judge.  
21-4-65

20

(26)

7-5-65

9 Subpoenas issued by Defendant—W. P.

Intld. ....

(27)

2-6-65

Proctor for Plaintiffs with notice to Proctor for Defendant files Plaintiffs' list of witnesses and documents and moves for Summons on witnesses.

1. File.
2. Cite witnesses.

30

Sgd. A. E. R. COREA  
Additional District Judge.  
2-6-65

(28)

15-6-65

10 Subpoenas issued by Plaintiff—W. P.

Intld. ....

(29)  
13-7-65  
Mr. M. Ranganathan for Plaintiff.  
Mr. A. C. Abeyewardena for Defendant.  
Trial (3)

*Vide* proceedings.  
Further hearing on 14-7-65.

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

Sgd. A. E. R. COREA  
*Additional District Judge.*  
13-7-65

10

(30)  
14-7-65  
Further hearing.  
Appearances as above —  
*Vide* proceedings.  
Further hearing on 1-10-65 and 12-10-65.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
14-7-65

20 Unstamped Proxy of Plaintiff filed.

Intld. ....  
14-7-65

(31)  
25-9-65  
As 12-10-65 is not convenient to Mr. C. Renganathan, Q. C. Proctor for  
Defendant moves that court be pleased to fix another date in addition to 1-10-65.

Proctor for Plaintiff consents.  
Mention on 1-10-65.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
27-10-65

30

(32)  
1-10-65  
Mr. M. Ranganathan for Plaintiffs.  
Mr. A. C. Abeyewardene for Defendant.  
Trial. Further hearing.  
Application at Journal Entry (31) mentioned.  
*Vide* proceedings.  
Further hearing on 3-12-65.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
1-10-65

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No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

(33)  
3-12-65  
Mr. M. Ranganathan for Plaintiff.  
Mr. A. C. Abeyewardene for Defendant.  
Trial. Further hearing.  
*Vide* proceedings.  
Further hearing on 22-3-66 and 23-3-66.  
No earlier date possible.

Sgd. A. E. R. COREA  
*Additional District Judge.* 10  
3-12-65

(34)  
22-3-66  
Mr. M. Ranganathan for Plaintiff.  
Mr. A. C. Abeyewardene for Defendant.  
Further hearing.  
*Vide* proceedings.  
Further hearing on 12-5-66.  
Mr. Advocate Samarakoon tenders a Petition and Affidavit and moves for an  
interim injunction. 20  
Issue interim injunction accordingly.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
22-3-66

(35)  
30-3-66  
Interim injunction issued on Defendant—W. P.

Intld. ....

(36)  
12-5-66  
Mr. M. Ranganathan for Plaintiff.  
Mr. A. C. Abeyewardena for Defendant.  
Further Trial.  
Written submissions on 11-6-66.

30

Sgd. A. E. R. COREA  
*Additional District Judge.*  
12-5-66

(37)  
11-6-66  
Mr. M. Ranganathan for Plaintiff.  
Mr. A. C. Abeyewardena for Defendant.  
*Vide* Journal Entry (36) written submissions tendered.  
Judgment on 13-7-66.

40

Sgd. A. E. R. COREA  
*Additional District Judge.*  
11-6-66

(38)  
13-7-66  
Judgment on 12-8-66.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
13-7-66

No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

(39)  
12-8-66  
Mr. M. Ranganathan for Plaintiff.  
10 Mr. A. C. Abeyewardena for Defendant.  
Judgment — delivered in open court in the presence of the Proctors and the  
1st Plaintiff.

Sgd. A. E. R. COREA.  
*Additional District Judge.*  
12-8-66

(40)  
18-8-66  
Mr. M. Ranganathan files Petition of Appeal (40a) of the Plaintiffs-Appellants  
against the judgment of this court dated 12-8-66 and moves that the same be  
20 accepted. He tenders stamps Rs. 143/- for Supreme Court Decree and Stamps  
Rs. 81/- for Secretary's certificate in appeal (40b). He also tenders notice of se-  
curity signed by Plaintiffs-Appellants for service on the Defendant-Respondent  
a limited liability Company, either (a) by leaving it at the registered office of the  
Defendant-Respondent at Lady Catherine Group, Ratmalana or at 122, Ward  
Place, Colombo 7 or (b) by giving it to the Secretary or other principal officer  
of the Defendant-Respondent Company. He also moves for a paying in  
voucher for Rs. 600/- to deposit security for costs in appeal and for a paying in  
voucher for Rs. 20/- to deposit the fees for typewritten copy of the appeal brief  
for Plaintiffs-Appellants.

- 30
1. Accept Petition of Appeal.
  2. Issue Notice of Security accordingly for 29-8-66.
  3. Issue Paying-in-Voucher for Rs. 20/-.

Sgd. S. R. WIJAYATILAKE  
*District Judge.*  
18-8-66

Stamps Rs. 143/- for Supreme Court  
Decree cancelled and kept in Safe.  
Stamps Rs. 81/- for certificate in appeal affixed to (40b) and cancelled.

Intld. ....

40 (41)  
18-8-66  
Notice of Security issued on Defendant-Respondent to Deputy Fiscal Colombo,  
precept returnable on 28-8-66.

Intld. ....

(42)  
Paying-in-Voucher for Rs. 20/- issued.

Intld. ....  
18-8-66

(43)  
19-8-66  
Proctor for Plaintiffs-Appellants tender Application for typewritten copy of  
Brief and Kachcheri Receipt for Rs. 20/-  
File.

Sgd. S. R. WIJAYATILAKE 10  
*District Judge.*  
19-8-66

(44)  
29-8-66  
Mr. M. Ranganathan for Plaintiffs-Appellants.  
Mr. A. Clive Abeyewardena for Defendant-Respondent.  
Notice of Security served on the accountant of Defendant-Respondent Co.  
He is absent.  
Accept Security. Perfect Bond.  
Issue Notice of Appeal for 10-10-66. 20

Sgd. ....  
*Additional District Judge.*  
29-8-66

(45)  
Paying-in-Voucher for Rs. 600/-.  
Issued.

Intld. ....  
29-8-66

(46)  
31-8-66  
Proctor for Plaintiffs-Appellants files Security Bond together with K. R.  
for Rs. 600/-. 30  
File.

Sgd. ....  
*Additional District Judge.*  
1-9-66

(47)  
14-9-66  
Notice of Appeal issued on Defendant-Respondent to Deputy Fiscal,  
Colombo. 40  
(Precept returnable on 5-10-66).

Intld. ....

(48)  
10-10-66

1. **Notice of Appeal served on Defendant-Respondent. Defendant-Respondent is Absent.**
2. **Proctor for Plaintiff to submit Decree for signature on or before 17-10-66.**

Sgd. ....  
*Additional District Judge.*  
10-10-66

<sup>10</sup> (49)  
11-10-66  
Proctor for Plaintiff files Decree.  
Decree is signed.

Sgd. ....  
*Additional District Judge.*  
11-10-66

(50)  
17-10-66  
**Mr. M. Ranganathan for Plaintiff-Appellants.**  
<sup>20</sup> **Mr. A. Clive Abeyewardene for Defendant-Respondent.**  
Decree tendered and signed —  
*Vide Journal Entry (49)*  
Forward record to Supreme Court.

Sgd. ....  
*Additional District Judge.*  
17-10-66

(51)  
18-10-66  
Record sent to Registrar of Supreme Court in appeal with cancelled stamps  
<sup>30</sup> Rs. 143/- for Supreme Court Decree.

Intld. ....

(52)  
28/29-12-68  
Registrar, Supreme Court returns record, with Supreme Court Order.  
Appeal has been upheld.

1. Proctors for parties to note.
2. Enter Decree in terms of Supreme Court Order.

Sgd. ....  
*Additional District Judge.*



No. 1  
Journal  
Entries —  
29-11-63 to  
20-7-69  
—Continued

(53)  
5-1-69  
Proctor for Plaintiff files Decree in terms of Supreme Court Order.  
Decree is signed.

Sgd. ....  
*Additional District Judge.*

(54)  
9/11-1-69  
Proctor for Plaintiff files Application for Execution of Decree and moves that  
Order to Sell be issued. 10

Issue Order to Sell.

Sgd. ....  
*Additional District Judge.*  
11-1-69

(55)  
24-1-69  
Commission to sell issued to Mr. A. Wanigaratchi returnable 11-1-1970.

Intld. ....

(56)  
30/31-3-69  
Commissioner files conditions of sale, mode of advertisement and probable  
charges and valuation report for approval of Court. 20  
Property valued at Rs. 150,000/-.

1. Valuation, Conditions of sale, mode of advertisement as amended  
are approved.
2. File draft notice for approval of Court.

Sgd. ....  
*Additional District Judge.*  
31-3-69

(57)  
27/28-5-69  
Commissioner files draft advertisement for approval of Court.  
Same is approved. 30

Sgd. D. WIMALARATNE  
*Additional District Judge.*  
28-5-69

(58)

2/3-6-69

Proctor for Plaintiff moves that Plaintiff be allowed to bid for at the sale and he be given credit to the extent of claim — costs.  
Issue notice of appraisalment.

Sgd. ....  
*Additional District Judge.*  
3-6-69

(59)

10 3-7-69

Proctor for Defendant files Petition and Affidavit and for reasons stated therein moves that order of sale be recalled and execution proceedings be stayed.

Proctor for Plaintiff has received notice and has cause to show.

Call case 10-7-69.

Sgd. ....  
*Additional District Judge.*  
2-7-69

(60)

10-7-69

20 Mr. M. Y. M. Nizar for Plaintiff.  
Mr. C. V. Abeywardena for Defendant.  
Case called — *Vide Journal Entry 59*  
Stay execution proceedings.  
Objection for 29-9-69.

Sgd. ....  
*Additional District Judge.*

(61)

19/20-7-69

30 Registrar, Supreme Court by his letter No. B. 29/69 of 19-7-69 calls for this record as an appeal has been preferred to Privy Council.  
Forward record to Supreme Court.

Sgd. ....  
*Additional District Judge.*  
25-7-69

**PLAINT OF THE PLAINTIFFS**

**IN THE DISTRICT COURT OF COLOMBO**

No. 9039/MB

Class:

Nature: Mortgage

Procedure: Regular.

Amount: Rs. 125,000/-

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo. 10
2. H. R. FERNANDO & CO. LTD., of 131, City Mission Building, Dam Street, Colombo 12.
3. CEYLON FINANCE & SECURITIES LTD., of 282, Grandpass Road, Colombo 14.

*Plaintiffs.*

*Vs.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED of Lady Catherine Group, Ratmalana.**

*Defendant.*

On this 29th day of November 1963. 20

The Plaintiff of the Plaintiffs abovenamed appearing by Muthucumaran Ranganathan their Proctor states as follows:—

1. The Second and Third Plaintiffs and the Defendant are each bodies corporate capable of suing and being sued in their corporate name and having their respective Registered offices at the places abovementioned.

2. The Bond which is the subject matter of this action and the cause of action hereinafter set forth arose at Colombo within the jurisdiction of this Court.

3. By a bond or writing obligatory No. 432 dated 13th August 1960 attested by M. Ranganathan Notary Public which is filed herewith marked 30 letter "A" and pleaded as part and parcel of this plaint the Defendant bound itself to pay to the First Plaintiff his heirs executors and assigns the sum of Rs. 57,000/-, to the Second Plaintiff its successor or successors and assigns a sum of Rs. 21,000/- and to the Third Plaintiff its successor or successors and assigns a sum of Rs. 47,000/- aggregating to the total sum of Rs. 125,000/- which sum the Defendant bound itself to pay on demand after a period of Three Years from date of the said bond with interest at 10% per annum to each of the aforesaid Plaintiffs on the respective sums borrowed from each of the Plaintiffs.

4. For further securing the payment of the said principal and interest the Defendant mortgaged with the First Plaintiff his heirs executors administrators and assigns and with the Second and Third Plaintiffs their respective successors and assigns by way of primary mortgage all that divided and defined portion of land from and out of land called Lady Catherine Group in extent A1.R0.P0. according to Plan No. 296 dated 10-8-57 made by K. M. Samarasinghe Licensed Surveyor which is more fully described in the First Schedule hereto with the buildings thereon and together with the estate right title interest property and claim in the machinery fixtures and equipments in the said land and buildings (and any such machinery which may thereafter be installed) and more fully described in the Second Schedule hereto and also the rents, profits and other income from the said machinery and all the insurances thereon described in the Third Schedule hereto.

N. 2  
Plaint of the  
Plaintiffs —  
29-11-63  
— Continued

5. There is now due and owing from the Defendant to the Plaintiffs the said sum of Rs. 125,000/- with interest at 10% per annum from 13th June 1962 which sums the Defendant has failed to pay though thereto demanded.

6. A cause of action has therefore accrued to the Plaintiffs to sue the defendant for the recovery of the said sum of Rs. 125,000/- with interest thereon at 10% per annum from 13th June 1962.

20 WHEREFORE the Plaintiffs pray :—

- (a) that the Defendant be ordered to pay the Plaintiffs the said sum of Rs. 125,000/- with interest thereon at 10% per annum from 13-6-62 till decree and on the aggregate amount of the decree at the legal rate till payments in full,
- (b) for costs,
- (c) that the said properties described in the First, Second and Third Schedules hereto be declared specially bound and executable for the payment of the amount of the decree with further interest and costs on the footing of the said Bond No. 432,
- 30 (d) that on the failure of the Defendant to pay the amount of the decree the properties described in the Schedules hereto be sold by Public Auction by Licensed Auctioneer (or some other Auctioneer nominated by Court) at the spot subject to the Conditions of Sale hereto annexed marked "B",
- (e) that the Auctioneer be directed
  - (i) to put up the properties described in the Schedule hereto for sale at the amount of his valuation and if there be no bidders at that amount at the amount of the claim interest and costs and there no bidders at that amount then to the highest bidder.
  - 40 (ii) to allow the Plaintiffs or their Agent to bid for and purchase the said properties upon such terms as to Credit as the Court thinks fit.

No. 2  
Plaint of the  
Plaintiffs —  
29-11-63  
—Continued

- (f) that the Secretary of this Court be authorised to execute a conveyance of the properties to the Purchaser or Purchasers upon the sale being confirmed and the conditions being satisfied.
- (g) that the proceeds of the sale be applied in and towards the payment of the said sum of Rs. 125,000/- interest and costs as decreed.
- (h) that the Court do reserve to itself powers to give further orders in respect of sale, place of sale, conditions of sale, transfer and possession, and
- (i) for such other and further relief as to this Court shall seem meet.

Sgd. M. RANGANATHAN 10  
Proctor for Plaintiffs.

### THE FIRST SCHEDULE ABOVE REFERRED TO

All that allotment of land being a divided and defined portion from and out of the land called Lady Catherine Group situated in the village of Telawela in Palle Pattu of Salpiti Korale in the District Colombo Western Province and bounded on the North-East by the remaining portion of the same land, on the South-East by estate road, on the South-West by part of the same land belonging to Glaxo Laboratories (Ceylon) Limited and on the North-West by the remaining part of the same land containing in extent One Acre (A1. RO. PO.) according to Plan No. 296 dated 10th August 1957 made by K. M. Samara- 20 singhe Licensed Surveyor.

### THE SECOND SCHEDULE ABOVE REFERRED TO

HIGH SPEED TOBACCO CUTTING MACHINE "SKODA" R6A	Qty.	£
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Production No. 52025

Equipped with:

- 1 Electric motor 440/220 V
- 1 Tobacco Knife
- 4 Knife holders
- set of spare parts.

30

### TOBACCO ROASTER LP-1

Production No. 13145

Equipped with:

- 2 Oil Burners
- 2 Exhausters
- 4 Electric motors
- 1 Compressor
- piping.

**TOBACCO COOLER LX-1**

Equipped with:

- 1 Exhauster
- 2 Electric motors  
piping.

No. 2  
Plaintiff of the  
29-11-63  
—Continued

**CIGARETTE MAKING MACHINE "SKODA" C6**

Production No. 56375

Equipped with:

- 3 Electric motors
- 10 Pickfront device
- Second printing device
- Dust exhausting device
- set of spare parts
- Bronzing device

**CIGARETTE PACKING MACHINE "ROSE-RU"**

Production No. 23758

Equipped with:

- Electric motor drive
- Loose front foil unit
- 20 set of spare parts.

**CELLOPHANE WRAPPING MACHINE "ROSE-NLG"**

Production No. 23757

Equipped with:

- Electric motor drive
- Strip attachment
- set of spare parts.

**BOILER TYPE "VESUV"**

For full Diesel Oil fuel

Equipped with:

- 30 1 Water Gauge
- 1 Pressure Gauge
- 1 Filling tap
- 1 Overpressure appliance
- 1 Holder of Burner
- 1 Burner PLB I/2
- 1 Rotary Compressor MR 70-D
- Piping for burnt gases
- Air supply piping
- Oil supply piping
- 40 Oil reservoir
- 1 Electric motor
- 1 Ventilator with piping.

No. 2  
Plaint of the  
Plaintiffs —  
29-11-63  
—Continued

**GRINDING MACHINE FOR TOBACCO CUTTING  
KNIVES "SKODA" BTK 450 (Second Hand)**

Production No. 940  
Equipped with:  
1 Electric motor  
1 Grinding Wheel

**THE THIRD SCHEDULE ABOVE REFERRED TO**

All the rents and profits or other income or returns whatsoever of or accruing from the said land machinery and premises and all and every the contracts and contract of insurance in respect of the land and buildings on the land in the First Schedule hereto fully described and the machinery equipment and fixtures in the Second Schedule hereto described and such other machinery or fixtures that may be from time to time therein installed and all sums of money which may be recoverable under the said insurance or insurances and all the estate right title interest property claim and demand whatsoever of the Mortgagor in to out of or upon the same. 10

Sgd. M. RANGANATHAN  
*Proctor for Plaintiff.*

(See P1 — Index Part II, Pages 218 and 227 for documents marked "A" & "B" annexed to the Plaintiff.) 20

No. 3  
Answer of the  
Defendant —  
11-6-64

**No. 3**

**ANSWER OF THE DEFENDANT**

**IN THE DISTRICT COURT OF COLOMBO**

1. **DR. HENNEDIGE CHARLES HENRY SOYSA** of 7, Greendlands Avenue, Havelock Town, Colombo, and 2 others.

*Plaintiffs*

*Vs.*

No. 9039/MB

**THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED** of Lady Catherine Group, Ratmalana.

*Defendant.* 30

On this 11th day of June 1964.

The answer of the Defendant abovenamed appearing by A. Clive Abeywardena, his Porctor, states as follows:—

1. The Defendant admits the averments contained in paragraph 1 of the plaint.

2. The Defendant denies all and singular the averments contained in paragraphs 2, 3, 4, 5 and 6 of the plaint and puts the Plaintiffs to the strict proof thereof.

No. 3  
Answer of the  
Defendant —  
11-6-64  
—Continued

3. Further answering, the Defendant pleads that:—

- (a) the Defendant company denies having borrowed and received from the 1st, 2nd and 3rd Plaintiffs the sums of Rs. 57,000/-, Rs. 21,000/- and Rs. 47,000/- respectively or any sum whatsoever,
- 10 (b) in any event (i) the alleged borrowing and/or the alleged execution of the bond was not for the purposes of the defendant company (ii) there was no resolution or decision in terms of the Articles of the defendant company to borrow the alleged sums or for the alleged execution of the said bond or a resolution authorising the alleged borrowing or the alleged execution of the bond,
- (c) for the reasons set out in (i) or (ii) above, the alleged borrowing of the said sums or the alleged execution of the said bond is *ultra vires* of the company and/or the said bond is not binding on the company,
- 20 (d) to the knowledge of each of the Plaintiffs the defendant company did not borrow any sum whatsoever from the Plaintiffs or any of them and/or that the alleged borrowing or the alleged execution of the bond was not for the purposes of the Defendant,
- (e) there is a misjoinder of parties and causes of action.
4. For all or any of the reasons set out in paragraph 3 (a), (b), (c), (d) and (e), the Plaintiffs cannot have and maintain this action.

Wherefore the Defendant prays:—

- (a) that the Plaintiffs' action be dismissed,
- (b) for costs, and
- (c) for such other and further relief as to this Court shall seem meet.

30

Sgd. A. CLIVE ABEYWARDENA.  
*Proctor for Defendant.*

Settled by :  
C. RENGANATHAN  
B. J. FERNANDO  
*Advocates.*



No. 4  
Answer of  
E.A.P. Ediri-  
singhe to  
Interrogatories-  
22-9-64

No. 4

**ANSWER OF E. A. P. EDIRISINGHE TO INTERROGATORIES**

**IN THE DISTRICT COURT OF COLOMBO**

1. DOCTOR HENNEDIGE CHARLES HENRY SOYSA of 7, Greenlands Avenue, Colombo, and 2 others.

*Plaintiffs.*

No. 9039/MB.

*Vs.*

THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED of Lady Catherine Group, Ratmalana.

*Defendant.* 10

The answer of E. A. P. Edirisinghe, Director of Defendant-Company abovenamed, to the interrogatories for his examination delivered on behalf of the abovenamed Plaintiff.

In answer to the said interrogatories, I, Edirisinghe Aratchige Premalal Edirisinghe, do hereby solemnly, sincerely and truly declare and affirm as follows:—

1. The interrogatory No. 1 itself is vague and the object of the interrogatory is to find out the evidence on which the Defendant relies in paragraph 3(b) of the answer. I submit and state that the interrogatory is improper and therefore object to answering the interrogatory. However I state in answer to interrogatory No. 1 that the Defendant did not borrow the amounts sued for in this action, and if it did the borrowing was not for any of the purposes of the Company. I have therefore so stated in paragraph 3(b) of the answer.
2. I object to answering interrogatory No. 2 as it is not a question to be put by way of interrogatory, as it relates entirely to facts relating to Defendant's case, and thus it is not a question that could properly be put by way of interrogatory.
3. I state that the reasons for the statement referred to in interrogatory No. 3 are set out in paragraph 3(b) (i) and (ii) of the answer.
4. In answer to interrogatory No. 4, I state that the meaning of the statement is self-evident.

Signed & affirmed to at Colombo  
on this 22nd day of September, 1964

Sgd. E. A. P. EDIRISINGHE.

Before me,

Sgd. ....  
*Justice of the Peace.*

**PETITION OF THE PLAINTIFFS**

## IN THE DISTRICT COURT OF COLOMBO

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & CO. LTD., of 64, Lauries Road, Colombo.
3. CEYLON FINANCE & SECURITIES LTD., of 282, Grandpass Road, Colombo 4.

*Plaintiffs-Petitioners.*

10 No. 9039/MB.

*Vs.*

THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED of Lady Catherine Group, Ratmalana.

*Defendant-Respondent.*

The 22nd day of March 1966.

The Petition of the Petitioners abovenamed appearing by their Proctor Muthucumaran Ranganathan states as follows:—

1. The Petitioners have instituted this action for the recovery of a sum of Rs. 125,000/- and for the enforcement of the Mortgage marked "P1".
- 20 2. Among other things mortgaged is machinery installed in the factory of the Defendant-Respondent set out in the Schedule to "P1".
3. Since the commencement of this action the Defendant-Respondent acting by its agent has removed and disposed of all except two pieces of such machinery.
4. The Petitioners state that unless the defendant, its servants and agents are restrained by injunction pending the final determination of this action movable property mortgaged will be disposed of and irreparable and irremediable damage will be done and any decree obtained will be rendered partially or wholly nugatory.

30 Wherefore the Petitioners pray:

- (a) that the Defendant-Respondent be restrained by interim injunction from removing or otherwise disposing of the movable property described in the Schedule 'P1' and/or the fixtures upon the land and premises;
- (b) for costs;
- (c) for such other and further relief as to this Court shall seem meet.

Sgd. M. RANGANATHAN.  
*Proctor for Plaintiffs-Petitioners.*

**AFFIDAVIT OF H. R. FERNANDO**

**IN THE DISTRICT COURT OF COLOMBO**

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & CO. LTD., of 64, Lauries Road, Colombo.
3. CEYLON FINANCE & SECURITIES LTD., of 282, Grandpass Road, Colombo 14.

*Plaintiffs-Petitioners.*

No. 9039/MB.

*Vs.*

10

THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED of Lady Catherine Group, Ratmalana.

*Defendant-Respondent.*

I, Hubert Richard Fernando of 64, Lauries Road, Colombo being a Christian do hereby make oath and state as follows :—

1. I am a Director of the second named Plaintiff-Petitioner Company.
2. The Petitioners have instituted this action for the recovery of a sum of Rs. 125,000/- and for the enforcement of the Mortgage marked "P1".
3. Among other things mortgaged is machinery installed in the factory of the Defendant-Respondent set out in the Schedule to "P1".
4. Since the commencement of this action the Defendant-Respondent acting by its agent has removed and disposed of all except two pieces of such machinery.
5. I beg to state that unless the Defendant, its servants and agents are restrained by injunction pending the final determination of this action movable property mortgaged will be disposed of and irreparable and irremediable damage will be done and any decree obtained will be rendered partially or wholly nugatory.

20

30

Sworn and signed at  
Colombo on this 22nd  
day of March 1966.

Sgd. H. R. FERNANDO.

Before me,

Sgd. J. B. EDIRIMANESINGHE  
*Commissioner for Oaths.*

**ISSUES FRAMED**

13-7-65

MR. ADVOCATE N. SAMARAKOON instructed by MR. M. RANGANATHAN for the Plaintiffs.

MR. ADVOCATE C. RENGANADAN with MR. ADVOCATE B. J. FERNANDO instructed by MR. A. C. ABEYWARDENA for the Defendant.

The 1st Plaintiff, the Directors of the other two Plaintiffs and a Director  
10 of the Defendant Company are present.

Mr. Renganadan brings it to the notice of the Court that the proxy filed on behalf of the Plaintiffs authorizes the Proctor to sue for and recover a sum of Rs. 53,658/39 whereas the Plaintiff claims a sum of Rs. 125,000/- according to the plaint. Mr. Samarakoon states that he will tender a fresh proxy. Mr. Renganadan has no objection to the trial being proceeded with on the undertaking that a fresh proxy will be tendered.

Mr. Renganadan says that the proxy of the Defendant Company in favour of Mr. A. C. Abeywardena does not bear the seal of the Company. He undertakes to rectify this.

20 Mr. Samarakoon raises the following issues :—

1. Did the defendant, by Bond No. 432 dated 13-8-60, bind itself to pay the plaintiffs the respective sums therein mentioned, aggregating to Rs. 125,000/-, with interest at 10% per annum?
2. Did the Defendant, for further securing the payment of the said sums referred to in issue 1, mortgage to the Plaintiffs, by way of primary mortgages, the properties referred to in the said bond and described in Schedules 1 and 2 to the plaint?
3. Did the Defendant fail to pay the said sum referred to in issue 1 with interest from 13-6-62?

30 4. If issues 1, 2 and 3 are answered in the affirmative, are the Plaintiffs entitled to :

- (a) judgment in a sum of Rs. 125,000/- with interest at 10% per annum from 13-6-62?
- (b) enforce the mortgage upon the said bond No. 432 in terms of the prayer to the plaint?

Mr. Renganadan suggests the following additional issues :—

5. Did the defendant, by the said bond, mortgage to the 1st, 2nd and 3rd Plaintiffs, the property described in the schedule to the plaint, for the repayment of the respective sums due to the 1st, 2nd and 3rd Plaintiffs?
6. Is there a misjoinder of parties and causes of action in the plaint?
7. If issue 6 is answered in the affirmative, can the plaintiffs have and maintain this action?
8. (a) was the alleged borrowing and/or the alleged execution of the bond for the purpose of the defendant company? 10  
(b) Was there a resolution or decision of the defendant company
  - (i) to borrow the alleged sums; or
  - (ii) for the alleged execution of the said bond; or
  - (iii) authorizing the alleged borrowing and/or the alleged execution of the bond?
9. If issue 8(a) and/or (b) be answered in the negative, was the alleged borrowing or execution of the bond *ultra vires* of the defendant company?
10. If issue 9 is answered in the affirmative, can the plaintiffs have and maintain this action? 20
11. In any event, are the plaintiffs entitled to the relief claimed in the plaint?

I accept the issues.

## No. 8

### Plaintiff's Evidence

Mr. Samarakoon calls:—

**Herbert Richard Fernando:**

Sworn, 49 years, Managing Director of Messrs. H. R. Fernando & Co. Ltd. 62, Lauries Road, Colombo.

*Q.* You are a Director of the 2nd Plaintiff H. R. Fernando & Co. Ltd? 30

*A.* Yes.

*Q.* You were a Director of the Company in 1960?

A. Yes.

Q. The plaintiffs in this case lent certain moneys to the defendant by Bond No. 432 dated 13.8.60 which is filed of record?

A. Yes.

I produce the bond marked P1.

Q. Three plaintiffs lent three different sums?

A. Yes.

Q. The 1st plaintiff lent Rs. 57,000/- which was paid by cheque No. D/5 1663 dated 13.8.60 drawn on the Bank of Ceylon City Office?

10 A. Yes.

I produce the Cheque marked P2.

Q. That sum has been credited to the Jupiter Cigarette Co. Ltd?

A. Yes.

Q. The 2nd plaintiff lent Rs. 21,000/- which was paid by cheque No. C/2 927314 dated 13.8.60 drawn on the Bank of Ceylon Foreign Department?

A. Yes.

I produce a photostat copy of the cheque marked P3.

The proceeds have been credited to the defendant.

20 Q. The 3rd Plaintiff lent Rs. 47,000/- which was paid by cheque.

I produce a photostat copy of the Cheque marked P4. The proceeds have been credited to the account of the defendant.

Q. By bond P1 the defendant mortgaged to the plaintiffs immovable and movable properties described in the schedule to the plaint for a total sum of Rs. 125,000/- with interest?

A. Yes.

Q. Prior to the plaintiffs lending these moneys, there was a meeting of the members of the mortgager?

A. Yes.

30 (Mr. Samarakoon moves to produce a copy of the minutes of the meeting. Mr. Renganadan objects to the production of a copy of the minutes of

the meeting. He submits that the original should be produced. Mr. Samarakoon states that he has summoned the defendant to produce the original.

Mr. Renganadan states that he has summoned this witness and the Directors of the Plaintiffs to produce the original. He states that the original is not with the defendant.

Mr. Renganadan, at this stage, wishes to question this witness in connection with his objection to the production of the copy of the minutes. I allow the application.)

Q. On 12.8.60 who were the Directors? 10

A. Dr. Soysa, Mr. Selvanathan, Mr. Chapman, Mr. Edirisinghe and myself.

Mr. Chapman and Mrs. V. S. M. de Mel were Directors.

Q. Who was the Secretary?

A. Mr. Sivadas.

Q. When did you cease to be a Director?

A. On 12.8.60.

Q. How did you cease to be a director?

A. Certain Directors had to resign in order to make provision for Mr. Edirisinghe's father to become a shareholder and a Director.

Q. Did you resign at the General Meeting or at the meeting of the Board 20 of Directors?

A. At the meeting of the Board of Directors.

That was held on 12.8.60

Q. How many resigned on that day?

A. Two Directors resigned according to my recollection; Mr. Chapman and Mr. Selvanadan. There were two meetings; those two resigned first and I resigned at the 2nd meeting.

Q. Up to the time you were a Director, the Secretary was Mr. Sivadas?

A. Yes.

Q. Who had the Books of the Company up to that date? 30

A. The Secretary.

Q. When documents are handed over by one officer to another there would be a receipt obtained?

A. The Company was to go on with two Directors and the Secretary.

Q. Who was the Secretary appointed?

A. I am not sure. They were demanding all the books and we had to hand them over.

Q. The documents were kept by the Secretary under the control of the Board of Directors?

10 A. Yes.

Q. If documents were handed over to the Secretary would not a receipt be obtained?

A. Those who remained were to continue the Company. The Secretary resigned and was brought back.

Q. Do you know whether the documents were handed over to any person?

A. I remember they were brought. The Company was to continue with the existing shareholders.

Q. You cannot say whether they were handed over?

20 A. Mr. Edirisinghe and Sivadas were taking over. It was not a case of handing over.

Q. Nor do you know what particular documents were handed?

A. All the documents were with the Secretary.

**Examined by Mr. Samarakoon:**

There was a meeting on 12. 8. 60.

Q. Were you present at that meeting?

A. Yes.

Q. Who kept the minutes?

A. Mr. Sivadas, as Secretary.

30 Q. Subsequently did you see a copy of the minutes?



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Evidence

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Examination  
—Continued

A. Yes.

Q. Did you affix your signature to the copy of the minutes?

A. Yes.

Shown the copy of the minutes?

Q. Is this your signature?

A. I identify my signature.

Q. There are other signatures?

A. Yes. Mr. Edirisinghe's signature is also there.

Q. Did this company have a Book of Minutes?

A. Yes.

10

Q. In whose custody was it on 12.8.60?

A. Mr. Sivadas was having it up to the time of my signature.

I resigned with two others. The minutes were with Mr. Sivadas and Mr. Edirisinghe at the time I left the premises.

Q. When you signed the minutes for what purpose did you sign.

A. For borrowing money.

Q. Was the original signed?

A. Yes.

Q. Where was the original?

A. With Mr. Edirisinghe and the Secretary.

20

(Mr. Renganadan, at this stage, states that further evidence will be led by him with regard to the document and also to contradict this witness in connection with this document. He states that a ruling may be made later with regard to the admissibility of the copy. I admit the document provisionally).

(Mr. Samarakoon produces the document marked P.5)

**Examination-in-chief continued:**

Q. P5 states that it is the minutes of the Extraordinary meeting held on 12.8.60 at No. 64, Lauries Road?

A. Yes.

30

Premises No. 64, Lauries Road, are mine.

Messrs. Clive Abeyewardene and M. Ranganathan were present.

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—Continued

Q. Can you tell who invited Mr. M. Ranganathan?

A. The Jupiter Cigarette and Tobacco Co. Ltd. Mr. Abeyewardene represented Mr. Edirisinghe. Mr. K. Selvanathan was a Director.

Q. Did he represent any Company?

A. The Jupiter Cigarette & Tobacco Co. Ltd. Mrs. U. Podihamine was proposed as a Director. That is Mr. Edirisinghe's mother.

Q. Who was Mr. E. A. S. Appuhamy?

10 A. Mr. Edirisinghe's father.

Q. Before you resigned from the Directorship, did you do anything in connection with your Shares that you owned in the Company?

A. No.

Q. After you resigned?

A. I transferred the shares.

Q. To whom?

A. To Mr. Edirisinghe.

Q. Did any other Directors transfer their shares?

A. Yes, Messrs. Soysa and Selvanathan.

20 Q. At what time was the Directors' meeting held?

A. As far as I remember, at about 5 or 5.30 p.m.

Q. The extraordinary general meeting was held at 6 p.m.?

A. Yes.

(Mr. Renganadan states that this witness should not be led).

I produce marked P6 the Annual Return of the Defendant Company. It is a certified copy dated 13.1.62.

Q. The return shows that the total indebtedness of the Company up to that date was Rs. 125,000/?

A. Yes.

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Plaintiff's  
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H. R. Fernando--  
Examination  
--Continued

Shown the original of P6:

Q. Can you recognize the signature?

A. Yes. It is that of Mr. Edirisinghe.

I produce marked P7, the annual return of the defendant Company for the year ending 13.1.61.

Shown the original of P7:

Q. Whose signature is it?

A. It is the signature of the Secretary of the Company, Mr. Sivadas

The total indebtedness in respect of the mortgage is Rs. 125,000/-.

I produce marked P8 the annual return made on 30.1.63.

10

Shown the original of P8:

Q. Whose signature is it?

A. It is that of Mr. Edirisinghe.

I Produce marked P9, the Company's form dated 22.8.60.

Q. Whose signature is on it?

A. It is that of Mr. Edirisinghe.

Shown No. 13:

Q. The entire form No. 13 is entered in somebody's handwriting; can you recognise the handwriting?

A. It has been entered by Mr. Edirisinghe.

20

Q. Particulars of the mortgage in P9 and the particulars in respect of the loan of Rs. 125,000/- are in Bond P1?

A. Yes.

### Cross-Examination.

(The plaintiffs' Proctor leaves the Court).

Q. The defendant Company was formed with you and a few others?

A. Yes.

Q. Who was the principal shareholder of the Company?

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Cross-Exami-  
nation

A. I was one of them.

Q. How many shares?

A. I am sorry, I cannot remember.

Q. You were the Chairman of the Board of Directors?

A. Yes.

Q. Mr. Selvanathan was a major shareholder?

A. Yes.

Q. He and his family held a large number of shares?

A. Yes.

10 Q. Dr. H. C. H. Soysa and his associates held a large number of shares?

A. Yes.

Q. The three principal shareholders of the Company were Mr. Selvanathan, Dr. Soysa and yourself?

A. Yes.

Q. What was the subscribed capital in 1960?

A. Rs. 3,200,000/-. I cannot give the exact figure.

Q. Apart from the shareholders you mentioned, there were other shareholders who held small shares?

A. Yes.

20 Q. Mr. Chapman 250 shares?

A. Yes.

Q. In 1959, your Company was unable to go into production owing to want of funds?

A. We wanted more money. I cannot give the date exactly.

Q. What have you done with the subscribed capital?

A. We bought the land and put up a building. We also paid a part of the cost of machinery.

Q. Did your Company borrow any money from Mr. Edirisinghe?

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nation  
—Continued

A. We did not borrow to my knowledge. Mr. Edirisinghe became a shareholder and then a Director.

Q. He paid on account of shares?

A. I cannot say exactly.

Q. Did he pay about a lakh of rupees?

A. The Secretary was dealing with that. I cannot say exactly.

Q. Rs. 50,000/- was paid originally?

A. I remember he became a shareholder and afterwards he was elected a Director.

(Court: Q. Was any money given as part of the loan? 10

A. He was a shareholder and became a Director subsequently, Mr. Sivadas was the Secretary).

Q. Apart from the shares for which Mr. Edirisinghe paid, there were 3335 shares subscribed by Sivanathan, Soysa and yourself and others?

A. Yes.

Q. The nominal value was Rs. 333,500/-?

A. Yes.

Q. The position in 1958 was that you were unable to go into production?

A. It was at that stage that the building was put up. We bought the machinery and the machinery was being installed. It was not the 20 production time.

Q. You were unable to proceed on account of lack of funds?

A. Yes.

Q. You were unable to find a person to manage the business?

A. Yes, we wanted a technical man. It was a new venture.

Q. You were looking for a person who would buy shares?

A. We wanted more shareholders in order to collect some money.

Q. Did you get more shareholders?

A. Subsequently more shares were sold. That was in the latter part of 1959 or in the early part of 1960. 30

Q. You resigned on 12.8.60.

A. Yes.

Q. It must have been before that that you wanted more shareholders?

A. Yes.

Q. Was it in the latter part of 1959 you were thinking of getting more shareholders?

A. Yes.

We got a certain sum of money but it was not sufficient.

Q. Therefore you were looking for some people who would buy shares?

10 A. Yes.

We thought of selling the shares if we could not get money.

Q. Dr. Soysa, Mr. Selvanathan and yourself negotiated?

A. No. It was the Secretary. Mr. Edirisinghe wanted to take the management. He said that he would buy all the shares. We agreed to sell.

Q. The price was Rs. 84/75 a share?

A. Yes.

Q. That is, Rs. 100/- share to be bought at Rs. 84/75?

A. Yes.

Q. At that time there were liabilities incurred by the Company?

20 A. Yes.

Q. Including loans?

A. I cannot say exactly what liabilities there were. It is quite possible there were loans.

Q. Have you lent money to the Company?

A. Yes.

Q. How much?

A. I cannot recollect now.

Q. You claimed Rs. 24,905/?

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Evidence  
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nation  
—Continued

A. Quite possible.

Q. That would be entered in the Books of the Company?

A. Yes.

Q. Mr. Selvanathan Rs. 16,000/-?

A. I cannot recollect.

Q. Dr. Soysa?

A. I cannot recollect.

Q. There were various sums due to different companies?

A. Yes.

Q. Have you recovered the money that you advanced?

10

A. Yes.

Q. How did you recover?

A. It was paid on the date of the sale.

Q. In addition to the payment for your shares, you recovered on the date of the sale whatever you advanced?

A. All liabilities were paid.

Q. In Addition you got at the rate of Rs. 84/75?

A. Yes.

Q. That payment was made by whom?

A. Mr. Edirisinghe.

20

Q. Similarly he bought all other shares at Rs. 84/75?

A. Yes.

Q. And he also paid all debts and liabilities?

A. All loans were paid.

Shown 4 documents of accounts marked D1, D1A, D1B and D1C.

(Mr. Samarakoon has no objection to their being marked subject to proof).

*Q.* These documents were given to Mr. Edirisinghe on the sale of the shares showing the financial position of the Company?

*A.* I do not know whether the Secretary gave them, or not.

*Q.* The total amount Mr. Edirisinghe would have to pay on loans taken by the Company, the purchase price of the shares, loans due to customers and sundry creditors was Rs. 380,000/-?

*A.* Quite possible.

*Q.* To make the payment, if he was going to make fully and to pay the loans and liabilities of the Company, he would require about Rs. 380,000/-?

10 *A.* Quite possible.

*Q.* Did he want accommodation for Rs. 125,000/-?

*A.* Yes.

*Q.* You agreed to give him that?

*A.* Yes.

*Q.* Mr. Selvanathan, Dr. Soysa and yourself agreed to give?

*A.* Yes.

*Q.* The small shareholders also agreed?

*A.* Yes.

*Q.* Did you want any security for the accommodation of Rs. 125,000/-?

20 *A.* Yes.

*Q.* Did you want Ward Place property owned by Edirisinghe's father?

*A.* No.

*Q.* Who was acting as Proctor or Notary in respect of the loan?

*A.* Mr. Ranganathan, on behalf of Dr. Soysa and Mr. Selvanathan.

*Q.* He acted right throughout?

*A.* Yes.

*Q.* He was the adviser?

*A.* Yes.

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nation  
—Continued



*Q.* Did they instruct Mr. Ranganathan to draft the Mortgage Bond?

*A.* Not to my knowledge.

Shown draft of deed marked D2.

(Mr. Samarakoon has no objection to its being marked, subject to proof).

*Q.* There is an endorsement on page 1 of D2 at the left-hand top corner?

*A.* Yes, "for approval and return".

*Q.* It bears the signature of Mr. Ranganathan?

*A.* It looks like the initials of Mr. Ranganathan.

*Q.* The property of Samuel Appuhamy No. 122, Ward Place, was mortgaged? 10

*A.* Not to my recollection. I am not sure.

*Q.* You wanted security for the amount you wanted to give?

*A.* Yes.

*Q.* You were not sure of the security?

*A.* We put forward a proposal.

*Q.* I put it to you that you gave Rs. 21,000/- as a loan to Edirisinghe?

*A.* Yes, on a mortgage.

*Q.* Mr. Selvanathan Rs. 47,000/- on a mortgage?

*A.* Yes.

*Q.* Dr. Soysa Rs. 57,000/- to Edirisinghe? 20

*A.* To the Jupiter Cigarette Company.

Shown receipt No. 446 dated 18.11.60:

*Q.* Is that signed by you?

*A.* It has been signed by my co-director. It was interest money due on Rs. 21,000/-.

(Counsel produces the receipt marked D3).

Shown receipt No. 462 dated 27. 12. 60 marked D4:

*Q.* Can you say who has signed it?

*A.* The same co-director has signed it. It is for interest received, on the bond sued upon.

Shown receipt No. 541 dated 28. 8. 61 marked D 5:

*Q.* Who has signed the document?

*A.* The same co-director, for the interest.

Shown letter dated 31. 5. 61 marked D6.

*Q.* Can you say who has signed it?

*A.* I have signed it.

<sup>10</sup> It has been addressed to Mr. Edirisinghe. (The letter is read.)

There is an endorsement on D6. I identify the signature there.

Shown transfer of shares dated 13.8.60 marked D7:

The transferor is Sivadas. One share was transferred to U. Podihamine. I recognise the signature of Selvanathan, and I also recognise the signature of Edirisinghe. The first witness was Selvanathan. I recognise his signature. The 2nd witness was M. Ranganathan. I recognise his signature.

*Q.* You said on 12.8.60 there was a meeting of the Board of Directors?

*A.* Yes.

*Q.* That was at your house?

<sup>20</sup> *A.* Yes. No. 64, Lauries Road.

*Q.* Do you recall who were present?

*A.* All the Directors. I cannot exactly say.

*Q.* As far as you recall?

*A.* Mr. Sivadas, the Secretary, Mr. Selvanathan, Mr. Soysa and myself. All were present.

*Q.* Why was that meeting held?

*A.* To transfer certain shares to Mr. Edirisinghe's father and to appoint Directors of the Company while other Directors resigned.

*Q.* What was the last board meeting you attended?

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Plaintiff's  
Evidence

Evidence of  
H. R. Fernando—  
Cross-Exami-  
nation  
—Continued

A. It was on 12.8.60.

Q. You said that it was held at 5 p.m.?

A. Yes, at about 5 p.m.

Q. You recall the transfer of the shares?

A. Certain shares were given to Mr. Edirisinghe's father and the mother. After that they were appointed Directors later on at another meeting. The first meeting was held in order to give shares. There was one Board of Directors' meeting and one shareholders' meeting on 12.8.60.

Q. When did you decide to have the shareholders' meeting?

A. About 10 or 15 days earlier.

10

Q. Was it an ordinary general meeting or an extraordinary general meeting?

A. It was not an official meeting.

Q. It was an unofficial meeting?

A. Yes.

Q. Of the large shareholders?

A. Of all the shareholders.

All the shareholders were present at the discussion.

The official meeting was held later on.

Q. Are you referring to the meeting held on 12.8.60?

20

A. Yes.

Q. The meeting held on 12.8.60 was an unofficial meeting?

A. It was an official meeting.

Q. Your decision to hold the official meeting was decided at the unofficial meeting?

A. Yes.

Q. Notice was sent for the extraordinary general meeting?

A. Yes.

Q. Did you get a copy?

A. No.

Q. Was it a printed notice?

A. No, it was a typewritten notice.

Q. If you can remember, can you tell who were present at the extraordinary general meeting held on 12.8.60?

A. Almost all the shareholders were present. I cannot say exactly.

Q. Was Mr. V. S. M. de Mel a shareholder?

A. No.

Q. Was any member of the family a shareholder?

10 A. Mrs. V. S. M. de Mel was a shareholder. She was present at the general meeting held on 12.8.60.

Q. Mr. Selvanathan was present?

A. Yes.

Q. Mr. S. K. Chetty was present?

A. Yes.

Q. At the meeting of the 12.8.60?

A. Yes.

Q. Dr. H. N. C. Soysa?

A. Yes.

20 I was also present.

Q. Mr. Chapman was present?

A. Yes.

Q. Mr. W. L. de Mel?

A. Yes.

Q. Mr. V. F. de Mel?

A. Yes.

Q. Mr. H. A. Peiris?

No. 8. . . . .  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando—  
Cross-Exami-  
nation  
—Continued

A. Yes.

Q. Mr. E. P. Fernando?

A. Yes.

Q. Mr. R. B. Menon?

A. No.

Q. Mr. C. P. Sivadas?

A. Yes.

Q. Mr. K. Saheed?

A. Yes.

Q. Mr. O. S. Cader Mira?

10

A. No.

Q. According to you, except Mr. Menon and Mr. Cader, all the other shareholders were present?

A. Yes.

Shown document D8: They are the draft minutes of the meeting of the Board of Directors. (Mr. Samarakoon has no objection to its being marked subject to proof.)

(The document is read.)

The first item is about transfer (The typewritten portion is read). The word 'to' is interpolated. The figure '4' is written in ink. The words 'we' and 'same' typed and cut off. Then follows certain interpolations after the word "accepted" (The witness reads the written portion).

Q. Can you tell in whose handwriting is that written portion which you read out?

A. That may be in my Proctor's handwriting.

Q. I put it to you that the portion written in the draft minutes of the meeting held on 12.8.60 is in the handwriting of Mr. M. Ranganathan?

A. The handwriting is similar to the handwriting of Mr. Ranganathan.

Q. Below you find the words 'Secretary' and 'Chairman' typed?

A. Yes.

30

Q. You find a line typed below the word Chairman?

A. Yes.

Q. Then follows typed words "Messrs. Jupiter Cigarette Company etc.?"

A. Yes.

Q. Was there a meeting at 5.30 p.m. on 12.8.60 at your bungalow?

A. There was a Directors' meeting.

Q. Your told us there was one shareholders' meeting and a Board of Directors' meeting?

A. I can recollect one each.

10

Sgd. A. E. R. COREA  
Additional District Judge  
13-7-65.

(Adjourned for lunch)

Resumed after lunch. Same appearances.

**Hubert Richard Fernando**, recalled, sworn:

**Cross-examination (Continued)**

(Shown D8-The portion below the minutes of the meeting of the Board of Directors is put to the witness.) I recall that meeting. That is the general meeting I spoke of as having been held on 12.8.60. The persons present were  
20 H. R. Fernando, K. Selvanathan, Dr. H. C. H. Soysa, E. A. P. Edirisinghe  
C. P. Sivadas and H. F. Chapman, and Mr. Clive Abeywardena and  
Mr. Ranganathan.

Q. You told the Court this morning that all the shareholders were present, except Mr. Menon and Mr. Meera Saibo?

A. Not all. The Shareholders were there. I said that Mrs. V. S. M. de Mel, S. V. Canapathy Chetty, W. M. de Mel, V. M. de Mel, H. C. Peris, E. P. Fernando and Sivadas were present. I am not sure whether Mr. K. Saheed was present.

Q. You said they were present at that meeting?

30 A. The shareholders were represented by leaders of groups. I was representing Mr. V. S. M. de Mel's group. Mr. Selvanathan represented three others. All the major groups of shareholders were there. The shareholders were there. They came but they did not stay upto the last minute. There were groups of shareholders. They entrusted the group leaders with the duty to act.

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Plaintiff's  
Evidence

Evidence of  
H. R. Fernando-  
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nation  
—Continued

No. 8  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando—  
Cross-Exami-  
nation  
—Continued

Q. Why is it that if they were present at the meeting their names are not noted?

A. They were represented by the leaders. H. R. Fernando represented V. S. M. de Mel, W. M. de Mel and E. P. Fernando. Selvanathan represented Canapathy Chetty. H. C. H. Soysa represented his family circle. The shareholders gave permission to the leaders to come to a final arrangement. If anything was to be done, it was left to the leaders.

That may be one of the reasons why the names of all the shareholders are not recorded in D8. Normally, if the shareholders are present at a meeting 10 their names will be recorded as persons present.

Q. They signed on a sheet of paper as being present?

A. Yes, normally,

Q. The paper is circulated among those present?

A. We do not follow that procedure. When the shareholders are there, the Secretary makes a note of the people who are present.

The minutes will state what the Secretary has noted about the persons who were present.

Q. It may be that one person may speak on behalf of a number of others?

A. Yes.

20

Q. If a number of others are present, their names will be recorded?

A. Yes.

In this case, the leaders were given permission to act.

(The minutes of the Extraordinary General Meeting shown in D8 are marked D8a).

D8 says that M/s. A. Clive Abeywardena and M. Ranganathan, Proctors, were present on invitation. Mr. Ranganathan represented three of us, i.e. H. R. Fernando, Selvanathan and Dr. Soysa. If I said in the morning that Mr. Ranganathan represented the Defendants, it was a mistake.

(Minute No. 1—"Directorate" is shown to the witness.) That is typed. 30  
(Witness reads it) Resignations were accepted as from that date. Witness continues reading) The portion "proposed by E.A.P. Edirisinghe and seconded by C. P. Sivadas, unanimously resolved that E. A. Samuel Appuhamy be and he is hereby appointed director of the Company as from this date" is typed. Item 2 refers to the transfer of shares. The portion "In terms of article 6 of the Company's Articles of Association, the Directors having unanimously approved the transfer of one share each to E. A. P. Edirisinghe, E. A. Samuel Appuhamy and Mrs. U. Podi Hamine" was typed.

Q. After "Podi Hamine" were typed "were duly ratified and confirmed"?

A. Yes.

Q. The words "were duly ratified and confirmed" have been scored off?

A. Yes.

Q. What are the words added in writing?

A. "And one share each by Mr. H. F. Chapman to Mr. E. A. Samuel Appuhamy, by C. P. Sivadas to Podi Hamine. The said transfers are duly ratified and confirmed."

That portion has been written in ink. It is in the same type of handwriting  
10 as D8.

Q. That is not the handwriting of Mr. Ranganathan, Proctor?

A. May be.

I am familiar with his handwriting. (Shown D7) It has been dated 13.8.1960. It is a transfer of a share by Sivadas to Udalage Podihamy.

Q. In D8a the transfer is referred to as having been ratified and confirmed?

A. It is so written.

Q. That is the transfer referred to in D7?

A. Yes.

20 Q. Could you tell the Court how a transfer signed on 13.8.60 was ratified and confirmed at a general meeting held on 12.8.60?

A. The Secretary has written it.

I cannot explain it.

Q. You personally, Dr. H. C. H. Soysa and Mr. Selvanathan were lending to E. A. P. Edirisinghe various sums of money - you gave Rs. 21,000, Rs. 47,000 by Selvanathan and Rs. 57,000 by Dr. Soysa ?

A. Yes.

Q. And a security had to be given?

A. Yes.

Q. You wanted security?

30 A. Yes.



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Plaintiff's  
Evidence

Evidence of  
H. R. Fernando-  
Cross-Exami-  
nation  
—Continued

*Q.* The security agreed upon was the property belonging to the Defendant Company?

*A.* The money was given to the Company and the mortgage was also from the Company. The mortgage was of the property of the Company.

*Q.* I put it to you that for the purpose of getting a mortgage of the Company's property certain minutes were drawn up as of meetings held?

*A.* No.

*Q.* One of those minutes drawn up was D8 and the other is D8a?

*A.* We had the meetings on the 12th of August 1960. 10

*Q.* Do you say D8 is a correct record of the minutes of the meeting held on 12.8.1960?

*A.* As far as I remember we held the meetings on 12.8.1960.

*Q.* Does D8 correctly record the minutes of that meeting?

*A.* The transfers were accordingly done and duly registered.

I cannot say whether all this is correct. If D8 is a true record from the Minutes Book, it is correct.

*Q.* You cannot say why Mr. Ranganathan added these words?

*A.* I cannot say.

It was on 13.8.60 that Mr. Edirisinghe drew out cheques in the names 20 of the various shareholders for the respective sums due.

*Q.* He drew out cheques in favour of the shareholders who had lent moneys to the firm. Did he make payments that day of moneys by way of loans?

*A.* In cash or by way of cheque. That was a condition of the sale.

(Counsel for the defendant takes certain cheques from the custody of the representative of the National and Grindlays Bank. He marks cheque No. 319062 dated 13.8.60, drawn in favour of H. R. Fernando, D9.)

(Shown D9): That is a cheque drawn in my favour for Rs. 12,712/50.

*Q.* That was given on account of moneys due on account of shares sold 30 to Mr. Edirisinghe?

*A.* I am not sure whether it is a loan amount or a share amount.

I had to get moneys on account of loans as well as on account of shares.  
(Shown cheque No. 319090 dated 13.8.60, marked D10.)

This is a cheque for Rs. 4,237/50 drawn by Mr. Edirisinghe in my favour. D9 has been endorsed by me. It has been credited to the account of H. R. Fernando & Co. Ltd., the 2nd Plaintiff in this case. Shareholders of H. R. Fernando & Co. Ltd. are myself, my brother, my sister and my wife. We hold equal shares. D10 has been endorsed by me and credited to the account of H. R. Fernando & Co. Ltd.

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10 Q. On that same day, 13.8.60, you gave the Defendant-Company the cheque P3?

A. Yes.

The cheque was drawn by H. R. Fernando & Co. Ltd. They gave me the cheque and I gave him the cheque. They were to give us for the shares and we had no money to give him. After the realisation of that, we had to give him a loan.

Q. The Cheque for Rs. 21,000 was drawn by H. R. Fernando & Co. Ltd?

A. Yes.

Q. That was drawn for you?

A. It was drawn for the mortgage.

20 Q. For moneys you personally agreed to lend to Mr. Edirisinghe?

A. No.

Q. Three of you agreed to give him accommodation—you personally Rs. 21,000?

A. Yes.

Q. It was in respect of that that this cheque was drawn?

A. I had no money personally. I borrowed from the Company and gave the loan.

Q. The Company itself had no money to meet P3?

A. That is why the share money was to be paid to me first.

30 Q. Is it correct that H. R. Fernando & Co. Ltd. itself had no money to meet cheque P3?

A. Not the full amount.

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Q. Then how were they to find the money to meet the cheque P3?

A. Loan money was to come. His cheque was to be put to the limited Company and the limited Company was to give a loan.

Q. You were going to deposit what was paid to you by cash and cheque, part of it, to the credit of H. R. Fernando & Co. Ltd.?

A. Yes.

Q. P 3 was to be met in that way?

A. Yes.

Q. Just as the cheques were given to you on 13.8.60 on account of the shares and the loans, cheques were also drawn in favour of other 10 shareholders?

A. Yes.

Q. And transfers were effected on that day?

A. Yes.

(Shown transfer dated 13.8.60, marked D 11.)

That is a transfer by P. Ebert Dias to E. A. P. Edirisinghe. I think Dr. Soysa's brother has signed as a witness. I identify the signature of the transferor, Mr. Dias. (Shown transfer dated 13.8.60, marked D12). It is a transfer by K. Selvanathan to E. A. P. Edirisinghe. Mr. Sivadas and Mr. Ranganathan have signed as witnesses. I identify the signature of Mr. Selva- 20 nathan.

(Shown transfer dated 13.8.60.) marked D13. It is a transfer by H. C. H. Soysa in favour of E. A. P. Edirisinghe. Mr. Selvanathan and Mr. Ranganathan have signed as witnesses. I identify the signatures.

(Shown transfer dated 13.8.60, marked D14) It is a transfer by me. I identify my signature. I signed it on 13.8.60. I transferred shares Nos. 456 to 605, one hundred and fifty shares. (Shown transfer dated 13.8.60, marked D15).

Q. It is a transfer by Mr. V. M. De Mel?

(Mr. Samarakoon objects. Mr. Ranganathan states he will prove the 30 signatures which are not identified by the witness.)

A. I cannot identify his signature.

(Shown transfer dated 13.8.60 - marked D16, subject to proof.)

Q. It purports to be a transfer by Sashilekha Selvanathan?

A. It is not a signature. It is written in block letters.

It was done in the presence of Mr. Sivadas and Mr. Ranganathan.

Q. Some persons may sign in block letters?

A. Possible.

(Shown transfer dated 13.8.60 marked D17, subject to proof.)

It purports to be a transfer by Sellam Chetty to Canappa Chetty. I cannot be sure of the signature of the transferor. I can identify only the signatures of Sivadas and Ranganathan.

(Shown transfer dated 13.8.60, marked D18, subject to proof.)

10 I cannot identify the name of the transferor. It is rather difficult to identify the signatures of the witnesses.

(Shown transfer dated 13.8.60, marked D19, subject to proof.)

I am not sure who the transferor is. The name given is H. C. Peris. I do not know his signature. I am not familiar with his signature. The signatures of the witnesses are also not familiar to me.

(Shown transfer dated 13.8.60, marked D20, subject to proof) H. G. Siromi Soysa has been written. I cannot identify the first witness' signature. The second signature is that of Mr. Ranganathan. I am familiar with Mr. Ranganathan's signature. I know the 1st Plaintiff. I do not get letters from  
20 him. He is a Director.

Q. You identified his signature on D13?

A. I am not sure. It is not very clear. I cannot identify his signature.

(Shown D21, marked subject to proof.)

Q. It is a transfer dated 13.8.60 by Manoharan Selvanathan. Can you identify his signature?

A. No.

I can recognise the signature of Mr. Ranganathan as one of the witnesses. (Shown D22 dated 13.8.60, marked subject to proof) I cannot identify the signature of the transferor. I can identify the signature of Mr. Ranganathan  
30 as one of the witnesses.

(Shown D23 dated 13.8.60 - marked subject to proof.)

I cannot identify the signature of the transferor. I can identify Mr. Ranganathan's signature as one of the witnesses.

(Shown D24 dated 13.8.60, marked subject to proof.)

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Q. It is a transfer by H. L. Dilanjan Soysa ?

A. I cannot identify the signature of the transferor. I can identify the signature of the second witness, Mr. Ranganathan.

(Shown D25, D26, D27, D28, D29 and D30, marked subject to proof, transfers dated 13.8.60.)

I can identify the signature of the second witness, Mr. Ranganathan on D25 and D26. The second witness' signature on D27 looks like that of Mr. Ranganathan. I am not sure whether it is his signature, but it is similar. The second witness' signature in D28 and D29 looks like that of Mr. Ranganathan. Only the transferor has signed D30. It is not possible to find 10 out if the witnesses have signed. (Shown D31 and D32, marked subject to proof, transfers dated 13.8.1960) It is not possible to identify the signature of the transferor. The signature of the second witness looks like that of Mr. Ranganathan.

(Shown D33, marked subject to proof.)

Q. It has been dated 13.8.60, but 13 has been scored off and 12 has been written ?

A. 13 has been cut and 12 has been written above it.

The signature of the second witness is that of Mr. Ranganathan. The name of Chapman is written as the transferor. I know him. He was a 20 Director of the firm. I can identify his signature. The signature of the second witness looks like that of Mr. Ranganathan.

(Shown D8a)

Q. There is no record in D8a of any resolution to borrow moneys ?

A. Not on this.

Q. You said there was only one general meeting on 12.8.60 ?

A. One resolution was passed at the meeting.

Q. You told us there was only one general meeting ?

A. As far as I recollect only one meeting.

Q. There was no reason to have two meetings ?

A. There could have been 2 meetings, if necessary—first to change the names of shareholders and the second to pass the resolution. Between 5 and 6, all the meetings were held - on the same day 12.8.60.

As far as I recollect, only one Directors' meeting and one shareholders' meeting was held on 12.8.60.

*Q.* Is it that Minutes were drawn up as if meetings had been held.

*A.* No.

*Q.* To give validity to the mortgage bond, whereby the Company was going to mortgage the property?

*A.* No.

*Q.* Can you explain to Court why all the names of the persons present are not noted in D8 or P5?

*A.* I can explain that. The shareholders were different, but there were leaders of groups. All the Soysas were brought by Dr. Soysa. I brought a certain type of shareholders. Mr Selvanathan brought a certain number. The shareholders had faith in the Directors who called upon them to be shareholders. The shareholders gave permission to the Directors. The shareholders were present at the meeting earlier, but could not wait till the last minute, and entrusted the duty to the leaders.

(Shown P5) Nine persons are shown as present. There were about 12 present. They were there at the time of the meeting. They could not wait because the resolution had to be typed, and some excused themselves and went away before the meeting was concluded. I know Dr. H. C. H. Soysa very well. He joined the Company later. I spoke to him and got him to join the Company. I have had no transactions with him. I knew him as a friend. He was a class mate of mine. He was a Director from 1959 to 1962.

The Company was started in 1957. He was a Director from 1958 or 1959. He could have been a Director for 2 or 3 years. Directors do not sign the Minutes Book. Only the Chairman signs.

*Q.* Whether it is a general meeting or a Board of Directors meeting, the Minutes Book is signed only by the Chairman and the Secretary?

*A.* Yes.

I have not seen Dr. Soysa signing documents. I am not quite familiar with his signature. I may be able to say whether a signature of his is his, but I am not familiar with his signature. (Shown P5).

*Q.* Do you say it is a copy of the Minutes of the meeting held on 12.8.60?

*A.* Yes.

It is an exact copy. The Chairman has signed the minutes. I have signed it. The third signature on the right-hand side is mine. Normally, when a Chairman signs, he will give his designation as Chairman. I have not said that I signed as Chairman.

*Q.* Below your signature in the Minutes Book, either written or type-written, you find "Chairman"?

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A. Yes.

The Secretary has signed, according to P5. His designation, Secretary, is not there.

Q. You told the Court that the persons who sign the Minutes Book normally will be the Chairman and the Secretary, and nobody else?

A. Yes.

It is normally typed and brought for the signature of the Chairman and the Secretary. P5 is a copy of the Minutes Book where the duplicate has been signed by me. The original is a typed copy.

Q. The signatures appearing on P5 would not appear in the Minutes Book? 10

A. This was on the 12th of August 1960.

Q. If the Minutes were recorded in the Minutes Book of the meeting held on 12.8.60, that would have only the signatures of the Chairman and the Secretary?

A. Yes.

Q. Therefore this is not an exact copy of the Minutes Book?

A. This is a copy of the original. All the Directors had signed as it was an important matter.

Q. If a meeting was held on 12.8.60, would the Minutes Book contain the signatures of persons other than the Chairman and the Secretary? 20

A. After the Minutes are read, the Chairman and the Secretary will sign in the place where it is written "Chairman" and "Secretary".

Q. That is on the date when the minute is confirmed?

A. Yes. The very next day.

Q. If there is a general meeting on 12.8.60, when would the minutes of that meeting be confirmed?

A. The next general meeting.

The Chairman and the Secretary sign on that occasion. The minutes of 12.8.60 were signed on the same day by all the Directors and confirmed, because we were resigning from Directorship of the Company. We were not 30 going to be Directors of the Company thereafter.

Q. This document was signed in order to execute a deed?

A. On that particular resolution all signed.

Q. For the purpose of executing the mortgage bond?

A. Yes.

(Shown receipt dated 17.2.1960 - marked D34, subject to proof.)

It is a receipt issued by Dr. Soysa for interest paid on the mortgage bond. (witness reads D34). It is a receipt for moneys paid by Mr. E. A. P. Edirisinghe.

(Shown D35, marked subject to proof, dated 14.9.60.)

It is a receipt issued by Dr. Soysa for interest paid by E. A. P. Edirisinghe.

(Shown letter dated 7.11.60, marked D36, subject to proof.)

10 It was a letter sent by Dr. Soysa to E. A. P. Edirisinghe. (Witness reads D36.)

(Shown D37, marked subject to proof - receipt dated 22.12.1960.)

It is a receipt given by Dr. Soysa for interest paid.

(Shown D38 - marked subject to proof, receipt dated 19.4.61.)

It is a receipt issued by Dr. Soysa for the period 13.2.1961 to 13. 3. 1961.

(Shown receipt D39, D40, D41, D42, D43, D44, D45, D46 and D47, marked subject to proof.)

Those are receipts issued by Dr. Soysa to Mr. Edirisinghe for interest paid on the mortgage bond. The receipts show that Mr. Edirisinghe paid 20 the interest on the mortgage bond.

Q. The receipts D3 to D5 were given by you in favour of Mr. Edirisinghe. He paid to you?

A. He sent a personal cheque. In the Ledger we put it to the Jupiter Cigarette Co. We gave the receipt to Edirisinghe but credited his account in the Jupiter Cigarette Co. Ltd. in our books.

I can produce those books.

Q. I put it to you the money was borrowed by E. A. P. Edirisinghe and not the Company?

30 A. No. We gave it to the Company. We resigned our posts. The Company was to go on. The Company was never dissolved, as the rest of the Directors carried on.

Sgd. A. E. R. COREA  
Additional District Judge  
13-7-65.

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Further hearing tomorrow, 14-7-65.

Sgd. A. E. R. COREA  
*Additional District Judge*  
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14-7-65.

Trial resumed. Same appearances.

**Hubert Richard Fernando**, recalled, affirmed:

**Cross-Examination—(Continued)**

(Shown Memorandum & Articles of Association of Jupiter Cigarette and Tobacco Co. Ltd.) 10

These are the Memorandum and Articles of Association of the Company. (The document is marked D48). I do not know the firm Muwanhela Estates Ltd. I am not sure whether they held shares in the Jupiter Cigarette Co. Ltd. (Shown a document dated 13.8.1960, marked D49) I have signed it. The transfer forms were signed by various people on 13. 8. 1960, and cheques were drawn by Mr. Edirisinghe, for payment of the moneys due for the transfer of the shares. Some of the shareholders were not present. As far as I remember, I took one cheque in favour of a shareholder and one transfer form to be signed.

Q. (Shown D49) You took six cheques drawn in the names of six parties 20 and six transfer forms. You undertook to get them signed by those parties.

A. These were signed and returned to them.

Q. The document is dated 13.8.60. You took 6 cheques and 6 transfer forms and you undertook to get those transfer forms signed by those parties?

A. Yes.

Q. You took 6 cheques on that day?

A. This was 5 years ago and I cannot recollect exactly.

Q. One of the cheques was drawn in favour of Muwanhela Estates Ltd.?

A. I cannot remember. 30

Q. The document says so?

A. Yes.

The transfer forms were signed by the shareholders and returned to the Defendant-Company. On 13.8.1960 I got 2 cheques, D9 and D10.

Q. You also received cash, Rs. 24,905/-, on account of moneys advanced by you to the Defendant Company?

A. I got a certain amount of cash.

The full amount due to me was paid. (Shown D9 and D10). I deposited the two cheques, D9 and D10, to the credit of H. R. Fernando & Co. Ltd. I took the cash. That was due to me. I did not deposit the cash or any part of it to the credit of H. R. Fernando & Co. Ltd.

Q. The cheques were your cheques?

A. Yes.

10 Q. They were your personal property?

A. Yes.

Q. They were not the property of the Company?

A. Yes.

Q. Why did you deposit those two cheques to the credit of H. R. Fernando & Co. Ltd.?

A. To give the loans.

(Mr. Clive Abeywardena leaves the Court).

I know Mr. Clive Abeywardena, Proctor for the Defendant. He came to my house, 64, Lauries Road, on the date the bond sued upon was signed.  
20 That was the only occasion on which he came to my house.

Q. (Shown P1) Were you present when P1 was signed?

A. I cannot remember.

E. A. P. Edirisinghe's father is Edirisinghe Aratchige Samel Appuhamy. He was made a shareholder on 12.8.60.

Q. That is, at the meeting you spoke of yesterday?

A. Yes.

He was also made a Director of the Company, subsequently, on the same day.

30 Q. To your knowledge, he was not appointed a Director at any of the meetings?

A. That is so.

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Q. From about the middle of July 1960 there were negotiations between E. A. P. Edirisinghe, yourself, Selvanathan and Dr. Soysa in respect of the sale of the Company's shares to Mr. Edirisinghe?

A. I cannot give the exact date, but there were negotiations.

Q. Oft and on, they met at your house and the negotiations were carried on there?

A. Yes.

The major shareholders were myself, holding 150 shares, Dr. Soysa and his group, holding about 900 shares, and Mr. Selvanathan, holding about 700 shares. I am not sure of the holdings of those groups. Mr. Chapman 10 held about 250 shares.

Q. You, Mr. Selvanathan, Dr. Soysa and Mr. Chapman were the major shareholders?

A. There were others who held more shares than I.

Q. But who did not take an active part.

Mr. Zaheed held more shares?

A. I held only 150 shares.

Q. You held 200 shares?

A. May be correct.

The discussions took place at my house, from time to time, about the sale 20 of shares to Mr. Edirisinghe.

Q. Originally, you, Mr. Selvanathan and Dr. Soysa agreed to give as loan, out of the moneys payable to the three of you, Rs. 175,000?

A. I cannot remember. We agreed to give Rs. 125,000.

Q. Earlier?

A. I cannot remember earlier than that. The Company wanted Rs. 125,000.

Q. Was not Rs. 175,000 mentioned, on the security of the mortgaged property?

A. Not to my recollection.

30

Q. Originally he wanted Rs. 175,000 on the security of 122, Ward Place?

A. Not to my knowledge.

*Q.* And you agreed?

*A.* Not to my knowledge.

The discussions took place on several days.

*Q.* Did you give instructions to Mr. Ranganathan, Proctor, to draft a mortgage bond to be given by E. A. P. Edirisinghe's father, Samel?

*A.* No.

(Shown D2) The endorsement by Mr. Ranganathan is "draft for approval" and dated 25.7.60. I did not give any instructions about it, and it was not done with my approval.

10 *Q.* Mr. E. A. P. Edirisinghe had no negotiations with H. R. Fernando & Co. Ltd.?

*A.* Yes.

*Q.* All negotiations were with you, Dr. Soysa, Mr. Selvanathan, Mr. Sivadas and Mr. Chapman?

*A.* Yes, unofficially.

*Q.* The discussions at your place were unofficial discussions?

*A.* Yes.

*Q.* Mr. Chapman was not willing to give any sum out of the amount due to him as a loan?

20 *A.* Yes, some people wanted the full payment.

*Q.* I put it to you, you originally agreed to give Rs. 175,000, to be contributed by the three persons, on the security of the Ward Place property?

*A.* No, only to the Company, Rs. 125,000.

*Q.* It was thereafter that Mr. Edirisinghe offered to give the property of the Company as security for a loan of Rs. 125,000?

*A.* The discussions were in regard to the property of the Company for Rs. 125,000.

*Q.* For the loan you were going to give Edirisinghe, he offered as security the property of the Company?

30 *A.* The Company wanted a loan and we agreed to give the Company a loan.

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*Q.* Discussions regarding that matter took place in your house, finally, on the 12th of August 1960?

*A.* Yes.

*Q.* What happened on 12.8.1960?

*A.* We had a Directors' meeting, and also a shareholders' meeting.

*Q.* I put it to you, there were no meetings, but only discussions as before?

*A.* No.

The official meeting was held on 12.8.60 I mentioned those present at the Directors' meeting on that day. All the Directors were present.

*Q.* Anybody else? 10

*A.* The two lawyers were present by invitation.

The two lawyers were Mr. Ranganathan and Mr. Clive Abeywardena.

*Q.* You told the court that Mr. Abeywardena was there only on the date when the bond was signed?

*A.* I think he was there on both days - 12th and 13th of August 1960.

*Q.* You told the Court this morning that he was there on the date the bond was signed?

*A.* Yes.

*Q.* That was signed on the 13th of August 1960?

*A.* Yes. 20

*Q.* You told the Court this morning that he came there only on one day?

*A.* That was my recollection.

*Q.* I put it to you, he came there only on one day, the date the bond was signed 13.8.60.

*A.* Yes. He was there on the first day as well. He was there on both days. 12th and 13th August 1960. What I said earlier was a mistake.

*Q.* Do you deny that Mr. Abeywardena was there only on one day, on 13. 8. 60, when the bond was signed?

*A.* As far as I remember, he came on both days.

*Q.* You cannot be definite about it? 30

A. He was there on both days.

Q. It was on 12.8.60, after discussions, that it was finally agreed that the Company's property be given as security?

A. The discussions took place earlier.

Q. When did you reach finality?

A. On 12.8.60.

Q. The next day, 13.8.60, was fixed for payments to be made, transfers to be effected and the bond to be executed?

A. Yes.

10 Q. The transfer forms that were filled up on that date were shown to you yesterday?

A. Yes.

Q. Was a typist brought there?

A. There was a typist. The Secretary was the typist.

Documents were drafted there.

Q. (Shown D8 and D8a) Were they drafted and typed there on 13.8.60?

A. This was done on 12.8.60, according to it. I am not sure about it.

I am not sure when the document D8 was drafted. We drafted and typed D8 and D8a on the same date, 12.8.60.

20 Q. Do you know when the draft for typing D8 and D8a were made?

A. On 12-8-60.

Q. Was the draft made in writing, before D8 was typed?

A. It might have been. I cannot remember.

Q. Was there a draft made in writing before D8a was typed?

A. There might have been.

Q. Do you know when that draft in writing was made?

A. I cannot remember.

Q. (Shown P5 ) When was P5 prepared?

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A. On 12.8-60.

Q. When was it signed?

A. On 12-8-60.

Q. Not on 13-8-60?

A. That is so.

Q. For the purpose of the negotiations for the sale of shares, Edirisinghe was given a statement showing the financial position of the Company, D1, D1a and D1b?

A. The directors had discussions about the position of the Company.

(Shown D1, D1a and D1b)

10

Q. Those were statements given to Mr. Edirisinghe?

A. Those were documents showing the position of the Company considered at the previous discussions.

Q. D1 shows "Motor Vehicles, Rs. 22580" as part of the assets of the Company?

A. Yes.

Q. How many motor vehicles were given to Edirisinghe?

(Mr. Samarakoon objects to the question. It is withdrawn)

I was the Chairman of the Board of Directors.

Q. I put it to you, there was only one motor vehicle on 12.8.60?

20

A. I cannot remember:

Among the assets is an item, "Stock of tobacco and other materials", Rs. 113,978. Where was this stock of tobacco stored?

(Mr. Samarakoon objects, as the question assumes the correctness of the document.)

(To court: There was a stock of tobacco, but I do not know what the quantity or the value was.)

I was not in charge of the stock. I was only the Chairman. I am not sure of the quantity of tobacco.

Q. Were materials belonging to the Defendant-Company stored at H.R. 30 Fernando & Co. Ltd.?

A. No.

Q. What are the other materials referred to in the item "Tobacco and other materials", in D1, D1a, D1b and D1c?

A. I cannot say.

Q. The agreement for you to sell to Edirisinghe and for him to buy at Rs. 84/75 per share was arrived at on the basis of the statements, D1, D1a, D1b and D1c?

A. We arrived at a calculation of Rs. 84/75.

Q. On the basis of these statements?

10 A. I cannot say whether it was exactly on the basis of those statements, but all the Directors arrived at a figure of Rs. 84/75.

(Counsel for the Plaintiff has no objection to the Proctor for the Defendant being called into Court, and he returns to the Court.)

### Re-Examination

In August 1960 I was the Managing Director of H. R. Fernando & Co. Ltd. I held 200 shares in the Company. Selvanathan and his group were the largest shareholders. I cannot give exactly the shares that Dr. Soysa and his group held.

Q. Did any members of his family hold shares?

20 A. Yes.

Dr. Soysa was the spokesman for the family group of the Soysas and Mr. Selvanathan the spokesman for the family group of the Selvanathans. I told the Court yesterday that the Defendant-Company had not started doing business. The factory building had been put up. Machinery had been purchased and installed. Experimental work was done on the manufacture of cigarettes.

Q. You told the Court yesterday that the Company found itself in difficulties in regard to the finances?

A. Yes.

30 Q. You gave the details yesterday?

A. Yes.

I was the Chairman at the time. The other Directors were Mr. Selvanathan, Mr. Chapman, Dr. Soysa, and Mr. Edirisinghe.

Q. What was Mr. Sivadas in the Company?

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Evidence of  
H. R. Fernando—  
Re-Examination



No. 8  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando-  
Re-Examination  
--Continued

A. He was also a Director.

Q. And functioned as Secretary?

A. He functioned as Secretary.

Mr. Sivadas was an employee of the Company. He knew about the manufacture of tobacco. He was not a citizen of Ceylon.

Q. When the Defendant-Company found that it was in a difficulty, did you suggest any solution?

A. Yes.

Q. What was the solution you suggested?

A. That we should get somebody from somewhere. 10

Q. Who was prepared to provide capital?

A. Yes.

All the directors agreed, including Mr. Edirisinghe. We could not raise the money. When the Company was in that predicament, Mr. Edirisinghe wanted to run the business and manufacture cigarettes. Mr. Edirisinghe wanted control of the business and he said he would run the business for the Company. The offer did not materialise. He himself wanted to purchase the shares. He wanted to take control of the entire share capital. I know Mr. Edirisinghe very well. Mr. Edirisinghe is the Chairman of the Defendant-Company now. 20

Q. When Edirisinghe wanted to take control of all the shares, the others realised they would have to sell the shares?

A. Yes.

I was agreeable to that. All the Directors were agreeable to that. I spoke of an official meeting of the Board yesterday. It was held about three weeks before 12-8-1960 at 64, Lauries Road, my residence. The Directors were present, including Mr. Edirisinghe.

Q. Did any lawyer come on his behalf?

A. I cannot remember.

Q. Did any lawyer come on behalf of the Defendant-Company? 30

A. No.

Q. Did any of the Directors bring any lawyers?

A. No.

The unofficial meeting lasted about two hours. The main topic was the sale of the shares to Edirisinghe and his group. His group consisted of himself—he was a shareholder.

No. 8  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando—  
Re-Examination  
—Continued

Mr. Sivadas was a shareholder. He was with Mr. Edirisinghe on this matter. Mr. Sivadas gave advice to Mr. Edirisinghe to purchase the shares. Mr. Edirisinghe acted upon that advice.

Q. There was a discussion with regard to the financial standing of the Company at the unofficial meeting?

A. We worked out the financial position of the Company.

10 Q. Was there a discussion with regard to the financial standing of the Company at that unofficial meeting?

A. There was a discussion.

Q. Who initiated that discussion?

A. The Secretary initiated it.

Q. At the time of that discussion, had Mr. Edirisinghe indicated to the others present that he had decided to purchase the shares of the others?

A. He mentioned it at the unofficial meeting.

Q. For the purposes of his purchase, did he mention any figure?

20 A. We worked out the figure and gave that figure of Rs. 84/75. There was a discussion and we agreed upon the figures.

(To Court: The figure was arrived at by going through the financial position of the Company.

Q. Who worked it out?

A. Mr. Edirisinghe suggested it that way.)

Q. The Court asked the question, who worked it out?

A. Mr. Edirisinghe worked it out.

Q. When Mr. Edirisinghe worked it out, did he have before him any set of figures on which he worked out the price of Rs. 84/75?

A. Yes.

30 Q. Who provided him with those figures?

A. The Secretary, Mr. Sivadas.

(Shown D1, D1a, D1b, and D1c) Those were the documents he had. There is some working in ink on the face of D1. The figures are those of the Secretary or Mr. Edirisinghe. There are some figures in ink and pencil on the face of D1a. The figures in ink are those of the Secretary, and the pencilled figures are of Mr. Edirisinghe. There are a number of calculations in ink on the reverse of D1a. The figures, totalling Rs. 492,500/- are those of the Secretary. There are some figures and drawings on the reverse of D1c. The figures are those of the Secretary. Some of the figures relate to outstanding bills, loans and deposit of moneys. There are figures at the top right hand corner, with the names of Dr. Soysa, Mr. Selvanathan, Mr. Edirisinghe and 10 Mr. Fernando. The figures are those of Mr. Edirisinghe.

Q. When Mr. Edirisinghe fixed the price of Rs. 84/75 was there any dispute from any of the others present?

A. No.

I said yesterday that it was quite possible that the value of the shares was as calculated by him and all the liabilities amounted to Rs. 380,000/-.

Q. Did anybody at the unofficial meeting arrive at the figure of Rs. 380,000/?

A. Mr. Edirisinghe.

The Plaintiffs knew how much they were getting for their shares. 20

Q. Was Mr. Edirisinghe prepared to pay the full amount on the purchase of the shares?

A. Yes.

Q. All that was at the unofficial discussion?

A. Yes.

Q. Did he make any request of the plaintiffs at that discussion?

A. He made a request.

Q. Did he make the request to you, Mr. Selvanathan or Dr. Soysa?

A. He made a request.

Q. What was that request? 30

A. He wanted money to work the Company from us, and he was prepared to give a mortgage.

Q. Did he make it a condition of his buying your shares?

A. Yes.

Q. Then, at the unofficial meeting you had agreed to sell and he had agreed to buy the shares at Rs. 84/75?

A. Yes.

Q. And a loan was being given to the Company? (Mr. Ranganathan objects to the question, as it is a leading question. Question withdrawn.)

Q. Were you prepared to give a loan to Mr. Edirisinghe personally?

A. Yes, to the Limited Company.

Q. Were you prepared to give the loan to Mr. Edirisinghe?

A. To the Limited Company.

10 Q. Was the amount of the loan to the Company agreed on at the unofficial meeting?

A. Yes.

Q. How much was agreed upon?

A. Rs. 125,000.

Q. Was the question of security discussed at that time?

A. Yes.

Q. Did the Plaintiffs ask for security?

A. Yes.

Q. Was the amount of the security agreed upon?

20 A. Yes.

Q. What was the security agreed upon?

A. The land, the buildings and the machinery belonging to the Company.

Q. At that unofficial meeting did Mr. Edirisinghe inform the persons present why the Company needed Rs. 125,000?

A. He wanted working capital.

I said yesterday that meetings were called for 12-8-1960. On that day, we had a Directors' meeting at first. There were two meetings on 12-8-60.

Q. Are you sure of that?

No. 8  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando-  
Re-Examination  
—Continued

A. As far as I remember, two meetings.

Q. Was Mr. Edirisinghe present at both meetings?

A. Yes.

Q. Was any lawyer present at both meetings?

A. Yes.

Q. Who were the lawyers?

A. Proctor Ranganathan and Proctor Abeywardena.

The Company invited Mr. Ranganathan to be present.

Q. Do you know how Mr. Abeywardena came to be present?

A. Mr. Edirisinghe got him down.

10

The first meeting was a meeting of the Directors. The Secretary of the Company, Mr. Sivadas was present. He kept a record of what took place.

Q. Was the record made?

A. Yes.

Q. Who made it?

A. The Secretary.

Q. You were asked whether a typist was present?

A. Yes.

(Mr. Ranganathan says it was with reference to the 13th of August, 1960).

Q. On the 12th of August 1960 did Mr. Sivadas make a typewritten record of the meeting of the Board of Directors?

A. Yes.

Q. Was that record signed by anybody?

A. Signed by all.

I received a copy of it. (Shown document marked P10) This is the copy I received. Six persons, six Directors, have signed it. The first signature is mine. The second signature is that of Mr. Chapman. The third is that of Dr. Soysa. The fourth signature is that of Sivadas, the 5th of Selvanathan and the 6th of Edirisinghe. I was shown the draft, P10. (Witness reads P10).

*Q.* Why were the minutes signed by all present?

*A.* Normally, two copies are . . . . .

*Q.* Answer the question, why were the minutes signed by all present?

*A.* We signed it to keep a copy each.

(Mr. Samarakoon calls for the official copy of the minutes from the Minutes Book.

Mr. Ranganathan states that he has no book of minutes upto 13-8-1960, or a copy signed by all the Directors, but that there is a Minute book available from 13-8-1960, when his client took over.)

<sup>10</sup> Sivadas sold his share to Mr. Edirisinghe. He continued to work in the Company as the Secretary. At the time P10 was given to me, the Secretary had the book of Minutes. There was another meeting after P10 was signed.

*Q.* On that day did you receive the minutes of the meeting held?

*A.* Yes.

(Shown P11) I recognise it. The persons who signed are Mr. Selvanathan, Mr. Edirisinghe, myself, Mr. Chapman, Dr. Soysa, Mr. Sivadas and Dr. Soysa's brother. P11 records the minutes of a shareholders' meeting held at 5.30 p.m. on Friday, 12-8-60. I remember that meeting. (Witness <sup>20</sup> reads the document.)

That is exactly in terms of the draft, D8a. I remember Mr. Abeywardena being present at the meeting.

*Q.* Was he there in an advisory capacity?

*A.* Yes.

*Q.* Whom was he advising?

*A.* Mr. Edirisinghe.

*Q.* Did Mr. Edirisinghe consult Mr. Abeywardena during the meeting?

*A.* Yes.

(The Plaintiff's Proctor leaves the court now.) (The witness continues to <sup>30</sup> read from the document.)

The second signature is Mr. Edirisinghe's. Samel Appuhamy is Mr. Edirisinghe's father. He became a Director. According to P10, the Directors approved the transfer of 1/8 share to Mr. Edirisinghe, his father and his mother.

*Q.* Thereafter the meeting record in P5 was held at 6 o'clock?

(Mr. Ranganathan objects to the question).

(To Court: *Q.* Was there another meeting?

*A.* One meeting at 5, one at 5.30 and one at 6 o'clock.

*Q.* On the same day?

*A.* Yes.)

*Q.* It was only when P11 was shown to you that you became aware?

(Mr. Ranganathan objects. The question is withdrawn).

*Q.* Till P11 was shown to you, were you aware of the fact that there was a meeting at 5.30? 10

*A.* Yes.

(To court: *Q.* When did you become aware?

*A.* Between 5 and 6 we had three meetings).

*Q.* The court asked you when you became aware of the meeting?

*A.* Now.

*Q.* Is P11 a correct record?

*A.* Yes.

*Q.* (Shown P11) It says it is an extra-ordinary general meeting of shareholders held at 5.30. Is that correct?

*A.* Yes. 20

*Q.* There are certain names given of persons present. Is that correct?

*A.* Yes.

*Q.* Is it correct that two Proctors, Mr. Clive Abeywardena and Mr. Ranganathan, were present?

*A.* Yes.

*Q.* Under the Heading "Directors", two matters are recorded,

(a) Resignations of Directors, Chapman and Sivadas, being tabled. Is that correct? Did that happen?

A. Yes.

Q. (b) that Mr. Edirisinghe proposed and Mr. Sivadas seconded that Mr. E. A. Samel Appuhamy be appointed a Director of the Company as from this date. Correct?

A. Yes.

Q. Is it correct that it was unanimously passed?

A. Yes.

10 Q. Under the heading "Transfer of Shares", there has been, according to this, a transfer of 1 share each by Mr. Edirisinghe to Mr. Samel Appuhamy and Mrs. Podihamy. Is that Correct?

A. Yes.

Q. Did that happen?

A. Yes.

Q. And one share by Mr. Chapman to Samel Appuhamy. Is that correct?

A. Yes.

Q. And by C.P. Selvanathan to Mrs. Podi Hamine?

A. Yes.

(Shown P5) It is a record of the minutes of the extraordinary general meeting of the shareholders of the defendant Company, held at 6 p.m., at  
20 Lauries Road.

Q. Persons present are named, including Mr. Abeywardena and Mr. Ranganathan. Is that correct?

A. Yes.

Q. Thereafter, under the heading "Directorate", resignations are recorded of Mr. Selvanathan, Soysa and yourself. Is that correct?

A. Yes.

Q. Is it correct that you resigned from that date and the resignation was accepted?

A. Yes.

30 Q. It states that Mr. Edirisinghe proposed and Sivadas seconded that Mrs. Podi Hamine be appointed a Director from that date?



No. 8  
Plaintiff's  
Evidence

-----  
Evidence of  
H. R. Fernando--  
Re-Examination  
---Continued

A. Yes.

Q. Was that unanimously passed as stated in P5?

A. Yes.

Q. "Finance - it was decided to raise financial accommodation of Rs. 125,000 for the purpose of the business of the Company." Is that correct?

A. Yes.

Q. "Mr. Edirisinghe informed the members that he had negotiated to raise loans from the Plaintiffs in this case." Is that correct?

A. Yes. 10

Q. "At a reasonable interest of 6 1/2%." Is that correct?

A. Yes.

Q. "Repayable in 3 years"?

A. Yes.

Q. Did he inform the meeting accordingly?

A. Yes.

Q. Passage Commencing "The members after due consideration decided to afford" and ending "pass the resolution" put to witness?

A. Yes.

Q. Did that happen? 20

A. Yes.

Q. (The resolution is put to the witness.)

Is that correct?

A. Yes.

Q. "And the machinery installed in the aforesaid premises"?

A. Yes.

Q. "Subject to such terms and conditions as to Mr. Edirisinghe shall seem expedient in the interest of the Company"?

A. Yes.

Q. Who suggested that?

A. Mr. Edirisinghe.

Q. It states that the meeting unanimously approved of Mr. Edirisinghe and Mr. Samel Appuhamy executing under the seal of the Company such bonds, deeds and documents as are necessary for obtaining and securing the loans aforesaid?

A. Yes.

Q. There is a thumb impression here of Mr. E. A. S. Appuhamy?

A. Yes.

10 Q. You remember the thumb impression being taken?

A. Yes.

Q. The words are "This is the left thumb impression of Mr. E. A. S. Appuhamy"?

A. Yes.

Q. Who wrote that?

A. Mr. Edirisinghe.

Q. In your presence, was Mr. Appuhamy given any advice as to which thumb it should be?

A. Yes.

20 Q. Who gave that advice?

A. Mr. Edirisinghe.

Bond PI was executed subsequently.

Q. For the purposes of that bond, who acted as the plaintiff's lawyers?

A. Mr. Ranganathan.

Q. Did Mr. Ranganathan call for any documents from you?

A. Yes.

Q. What documents?

A. The resolutions.

I furnished him with the resolutions, the resolutions passed on 12. 8. 60.

No. 8  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando-  
Re-Examination  
—Continued

*Q.* Did you furnish him with the resolutions in P5?

*A.* Yes.

*Q.* Did you furnish him with the document P10?

*A.* Yes.

*Q.* Did you furnish him with the Document P11?

*A.* Yes.

*Q.* Who brought them to the Court for the purpose of this case?

*A.* I brought them.

*Q.* You told the court in cross-examination that you could not remember being present at the time the bond was signed? 10

*A.* Yes.

*Q.* Do you remember whether Dr. Soysa or Mr. Selvanathan attended the execution of the bond P1?

*A.* They were present.

(To court: *Q.* You remember others being present but you do not know whether you were present?

*A.* I cannot remember.

*Q.* How do you know the others were present?

*A.* They were taking leave....

*Q.* You presume? 20

*A.* They told me they were present.)

P3 is for Rs. 12,000, drawn by H. R. Fernando & Co. Ltd. in favour of the Jupiter Cigarette and Tobacco Co. Ltd., the Defendant Company. The reverse of P3 shows that it was credited to the account of the Defendant at the National and Grindlays Bank Ltd. It says on the face of it, "effects not cleared, please present again 16. 8. 60". D9 and D10 were cheques given to me by Mr. Edirisinghe. They were given on account of the purchase of the shares. D10 was given on account of the loan and D9 on account of the shares. I have endorsed both D9 and D10. They were credited to the account of H. R. Fernando & Co. Ltd. The Bank of Ceylon negotiated it on behalf 30 of H. R. Fernando & Co. Ltd. on 16. 8. 1960 at the first clearance. P3 has been met on 16. 8. 1960.

*Q.* Do you know whether it was after the effects of D9 and D10 were realised?

A. After the effects were cleared.

Q. (Extract from D2 put to the witness) Did you at any time agree to grant a loan to Edirisinghe Aratchige Samel Appuhamy?

A. No.

Q. Was such a loan to Samel Appuhamy discussed at the unofficial meeting?

A. No.

Q. Had you seen this draft before it was shown to you in this court?

A. No.

(Shown D3, D4 and D5) Those were receipts granted by H. R. Fernando & Co. Ltd. to E. A. P. Edirisinghe, on account of interest on bond No. 432 dated 13. 8. 60 at 6 1/2%. All three receipts state that they were on account of interest on bond P1. I was asked in cross-examination whether I accounted for the payments in my books. I have not brought my books to the Court. (Shown D11 to D33).

Q. After all those transfers were executed, did Mr. Edirisinghe get control of them?

A. Yes.

Mr. Sivadas continued to work. Mr. Edirisinghe took over as Chairman of the Board of Directors. After he took control, the Jupiter Co. manufactured cigarettes. They manufactured cigarettes for about one year, as far as I know.

(Shown P7, annual return of the defendant Company, for the period ending 31. 12. 1961) P7 gives the names of three Directors, E. A. P. Edirisinghe, E. A. Samel Appuhamy and Podi Hamine.

Q. You were asked this question yesterday: "Normally, minutes are signed by the Chairman and Secretary after they are read and confirmed?"

A. Yes.

Q. Do you know whether those minutes, P5, P10 and P11 were subsequently read and confirmed?

30 A. Yes.

Q. When?

A. The same day.

Q. Why was this done in such a hurry?

No. 8  
Plaintiff's  
Evidence

Evidence of  
H. R. Fernando-  
Re-Examination  
—Continued

- A. The Directors had to keep a copy. It was signed and given.  
The Company was being handed over to the Directors.
- Q. Did Mr. Edirisinghe raise any objection when his signature was asked for on P5, P10 and P11?

A. He cannot raise any objection.

(To court: Q. Did he raise any objection?

A. No.)

Sgd. A. E. R. Corea  
Additional District Judge.  
14-7-65

10

Evidence of  
T. R. Chapman-  
Examination

(Trial resumed after the lunch interval.)

(Same appearances as earlier.)

Mr. Samarakoon Calls:

**Trevor Reginald Chapman:**

Sworn, 38 years, Executive, Messrs. Brown and Co. Ltd., No. 90,  
Layards Road, Colombo 5.

Q. Your father was a shareholder in the Defendant-Company?

A. Yes.

He is Hector Fredrick Chapman. He is at the moment in England.

Q. Can you tell us how many shares your father held in the Defendant Company in August 1960 prior to 12.8.60?

A. He held shares to the value of Rs. 21,000/-.

I think Rs. 25,000/-.

Q. Were you consulted in regard to these shares in the Defendant-Company in August 1960?

A. We did have a discussion.

Q. Did you attend any meeting of the Company in August 1960?

A. Yes. I attended several meetings.

Q. Were you made a shareholder?

A. No.

30

Q. Why did you attend the meetings?

A. It was at my father's request.

Q. Did you accompany him for all the meetings?

A. Yes.

Shown P5. Is your father's signature on it?

A. Yes. I identify my father's signature.

Shown P10: I identify my father's signature. It is the second signature.

Shown P11. My father's signature is the fourth.

Q. Can you remember the date?

10 A. I cannot remember. I remember 12-8-60. There were three meetings before that. It was the fourth meeting before the final meeting. I was present at all the three meetings.

(To court: There were three meetings on 12.8.60. The first meeting was with the shareholders in regard to the disbursement of shares. I cannot remember about the 2nd and 3rd meetings.)

Q. Was Mr. Edirisinghe present at the meeting you attended?

A. Yes.

Q. At any of those meetings on 12.8.60, was there any discussion in regard to the sale of shares by some of the shareholders?

20 A. Yes.

Q. Did that involve the sale of any of your father's shares?

A. Yes.

Q. Did your father agree?

A. Yes.

Q. Were there any loan transactions discussed?

A. Yes.

Q. What was the discussion in regard to the loans?

A. It was a matter between the three directors; H. R. Fernando, Dr. Zoysa, and Selvanathan.

No. 8  
Plaintiff's  
Evidence

Evidence of  
T. R. Chapman—  
Examination  
—Continued

Evidence of  
T. R. Chapman—  
Cross-Exami-  
nation

*Q.* Can you remember any particulars with regard to the discussion on the loan transaction?

*A.* No.

### **Cross-Examination**

Shown transfer form dated 13.8.60. marked D50:

Shown the signature of the transferer: It is my father's signature.

*Q.* Do you know when he signed the document?

*A.* It was signed on 13.8.60. I was present. Shown the signature on D33: My father has signed it. It was on the same day 13.8.60.

*Q.* You yourself had no interest in the Company? 10

*A.* No.

*Q.* You sometimes accompanied your father?

*A.* Yes.

I accompanied him everytime. I was with him.

*Q.* For how many meetings have you been attending with your father?

*A.* From 1957 onwards, till 1960; that was till 13.8.60.

I attended every meeting with my father. My father had to accompany me because I had to do the driving of the car. He also wanted me to attend the meetings.

*Q.* Was it proper in deciding to attend the meetings? 20

*A.* There was no objection.

*Q.* Do you recall the dates of the meetings that were held?

*A.* No.

*Q.* Except one date?

*A.* Yes.

I have noted on the cheque the date I received the cheque.

*Q.* That was 13.8.60?

*A.* The 12th or the 13th. It was a Saturday.

It was also a race day. That was the day I got the cheque.

*Q.* Do you have anything to do with racing? 30

A. No. I am not interested in racing. Somebody was talking about the races at the meeting.

Q. That was the meeting referred to in the document shown to you?

A. Yes.

Q. The meeting was held on the day you got the cheque?

A. Yes.

Shown cheque No. 319050 dated 13-8-60 for Rs. 84/75 marked D51: The payee is H. Chapman. My father had endorsed it. It has been sent to the credit of Messrs. Brown & Co. Ltd.

<sup>10</sup> Shown cheque No. 319083 for Rs. 21,102/75 marked D52. The payee is my father. He has endorsed the cheque. It has been credited to Messrs. Brown & Co. Ltd. Shown D51, D52 and D50. I have endorsed both the cheques. They have gone to my deposit account at Brown & Co. Ltd.

Shown D50, D33, D51 and D52. They were on 13-8-60. They were signed on 13.8.60. That was the date on which the three meetings were held.

Q. What was the first meeting?

A. The directors' meeting.

The other, the shareholders' meeting.

Q. There were two meetings?

<sup>20</sup> A. I cannot say what the other meeting was.

Q. You were wrong when you told the court that the meetings were held on 12-8-60?

A. Possible.

### Re-examination

Q. Can you remember whether the meetings were held on the 12th or 13th of August, 1960?

A. I now recollect there were meetings on the 12th of August, 1960, and payments were made on the 13th of August, 1960. There were three meetings on the 12th of August, 1960, and the payments were made on

<sup>30</sup>

13.8.60.

Sgd. A. E. R. Corea  
Additional District Judge.  
14-7-65

Mr. Samarakoon closes his case reading in evidence P1—P11. (The Proctor for the Plaintiffs comes back to Court at this stage and the Defendant's Proctor leaves the court.)

(The Plaintiffs' Proctor tenders a fresh proxy.)

No. 8  
Plaintiff's  
Evidence

Evidence of  
T. R. Chapman—  
Cross-Exami-  
nation  
—Continued

Evidence of  
T. R. Chapman—  
Re-Exami-  
nation



**DEFENDANT'S EVIDENCE****Mr. Ranganathan calls :**

ARTHUR CLIVE ABEYWARDENE.

Sworn, 65 years, Proctor Supreme Court, Colombo.

I have been in practice as a Proctor for about 35 years. I have seen Mr. H. R. Fernando. I have hardly seen him. I saw him at his bungalow on the day on which the mortgage bond was signed.

*Q.* Who invited you?

*A.* My client Mr. Edirisinghe. 10

*Q.* For what purpose did you go there?

*A.* To read and explain the contents of the deed, to the father. The father did not know English.

*Q.* Were you present when the deed was executed?

*A.* Yes.

Shown P1: It is the deed that was executed on that day.

*Q.* Had you been to that bungalow on any other occasion?

*A.* Never.

*Q.* Did you go to that bungalow on 12-8-60?

*A.* I have been to that bungalow only once; that was on the day on which the deed was signed.

*Q.* Were you invited to any meeting of the Defendant-Company?

*A.* No.

*Q.* Did you attend any meeting?

*A.* No.

**Cross-examination**

*Q.* Mr. Edirisinghe has been a long-standing client of yours?

*A.* Yes.

Q. For how many years has he been your client ?

A. About 10 or 12 years.

Q. You knew that he was interested in this Defendant-Company called Jupiter Cigarette & Tobacco Co. Ltd. ?

A. He did not speak to me about this Company.

Q. Up to date ?

A. Up to the time the deed was signed.

Q. Who asked you go to and attend to the execution of this document P1 ?

A. Mr. Edirisinghe; not his father.

10 Q. Did you ask him "what deed" ?

A. No. He said it was the deed which his father and he had to sign. There were many transactions and I was not worried at all. I was going there to read the deed and explain the contents.

Q. You did not ask what this deed was ?

A. No.

Q. You agreed to attend to it ?

A. Obviously.

Q. Did he tell you the time and place ?

A. He came in a car and picked me up.

20 Q. Was it the same day ?

A. That evening.

Q. He told you in the morning that he would pick you up ?

A. May be in the morning or afternoon.

Q. You knew where you were going when you got into the car ?

A. I did not ask him anything.

Q. I take it that you were taken to No. 60, Lauries Road ?

A. Yes.

Q. You were shown the deed ?

No. 9  
Defendant's  
Evidence

Evidence of  
A. C. Abey-  
wardene —  
Cross-Exami-  
nation  
— Continued

No. 9  
Defendant's  
Evidence

Evidence of  
A. C. Abey-  
wardene —  
Cross-Exami-  
nation  
— *Continued*

A. Yes.

Q. Mr. Ranganathan was there?

A. Yes.

Three copies of the deed were there.

Q. You explained the deed to Mr. Edirisinghe's father?

A. Yes.

Q. You read P1 from the beginning to the end?

A. Yes.

Q. It did not strike you that earlier you had seen the draft of this deed?

A. No.

10.

Q. Can you recall that you had attended Counsel's Chambers with Mr. Ranganathan?

A. No.

Q. Was Counsel consulted before this P1 was executed?

A. I had nothing to do with Counsel.

Q. Did you accompany Mr. Ranganathan and Mr. Edirisinghe to Counsel's Chambers with the draft of P1?

A. This is all news to me.

Q. You read and explained P1 to Mr. Edirisinghe and his father?

A. Yes. I told him that it was a mortgage bond for so much and I gave the 20 names of the people to whom the property was mortgaged.

Q. Mr. Edirisinghe's father did not understand English?

A. I read the document myself and gave a gist of it.

Q. Did you tell that it was a mortgage bond?

A. Yes.

Q. You told him, I take it, that the Company was mortgaging its immovable and movable property to 3 persons?

A. Yes.

*Q.* You told him that the total was Rs. 125,000/- which was a big loan to the Company?

*A.* I did not interpret word by word.

*Q.* Do you think that the son had explained it to the father before?

*A.* It is natural for the son to have explained it to the father.

*Q.* Did you gather from the son that he had already explained it to the father?

*A.* No.

10 *Q.* When you explained to the father, did you explain it on the basis that the father knew nothing about it?

*A.* I was there only to interpret the deed. There was no legal aspect.

*Q.* You knew, I take it, when you read it that it was a loan from 3 persons to the Company?

*A.* The deed says so.

This happened 3 or 4 years ago and I cannot remember details.

*Q.* Did the deed say so?

(The witness looks at the deed)

*Q.* You now recollect that the deed said so ?

*A.* Yes.

20 *Q.* The deed said that it was a loan from 3 persons to the Company?

*A.* Yes.

*Q.* You realized that it was not a loan to either Mr. Edirisinghe or to his father?

*A.* Yes.

*Q.* So you must have told that it was a loan from 3 persons to the Company?

*A.* Yes.

*Q.* Was Mr. Edirisinghe (the son) present at the time?

*A.* Yes.

*Q.* Did you get the impression that the son knew already about it?

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 —Continued

A. He should have known.

Q. Did you get the impression that the son knew already about it?

A. Yes.

Q. Did you get the impression that the father knew nothing about the bond till you explained?

A. The father knew that it was a mortgage. I told him exactly what the amount was, the party, and what the land that was to be mortgaged.

Q. It was the land and machinery that was being mortgaged?

A. Yes, the Ratmalana land. He did not show any disapproval.

Q. You yourself read the entire deed?

10

A. Yes.

Q. Besides the amount and the fact about the mortgage, did you think it necessary to tell him any details?

A. I cannot remember details at this late stage.

Q. Is it a fact that you explained it?

A. Yes.

I told him the total sum was Rs. 125,000/-.

Q. Did you tell him that the land described in the schedule was being mortgaged for a sum of Rs. 125,000/- at 6% interest?

A. I said the land and machinery.

20

Q. Was Mr. Edirisinghe (the son) present right throughout during the time you explained it?

A. Yes.

Q. Was his father satisfied after you explained it?

A. He did not say anything.

Q. Did he ask you whether he should sign it?

A. No.

I went there, if necessary, also to sign as a witness. It was about 8 p.m. when I left the place. I do not know whether they signed it or not.

*Q.* When the son met you in the morning or afternoon, did he tell you it was for the purpose of signing?

*A.* Normally it is also to sign.

*Q.* You said that you were prepared to sign as a witness?

*A.* That is usual.

*Q.* When you set out in his car, was it for the purpose of signing as a witness?

*A.* Yes, and for the purpose of explaining the deed.

*Q.* You did not sign?

*A.* I was not told to sign.

10 *It was the first time I read a deed like that.*

*Q.* When you read that the Company had passed a resolution to borrow money, did it not strike you as a Lawyer that it should be something you should explain to your client?

*A.* I was not worried.

*I did not study Company Law.*

*Q.* Did you know that fact before you set out on that day?

*A.* I knew.

*I heard from an outsider that Mr. Edirisinghe was buying up the business.*

20 Shown P11 : *Q.* This states that it was an extraordinary meeting of the shareholders of the Jupiter Cigarette and Tobacco Co. Ltd. held on 12-8-60 at No. 64, Lauries Road, Colombo?

*A.* Yes.

*Q.* It shows that Messrs. A. C. Abeywardene and M. Ranganathan were present?

*A.* I went to Mr. H. R. Fernando's place on that day.

*Q.* Will you contradict anybody who says that you attended any meeting on 12-8-60?

*A.* Yes. It is false.

*Q.* Did Mr. Ranganathan consult you in this connection?

30 *A.* No.

*I cannot remember.*

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Shown P5 : Q. There are the minutes of the extraordinary meeting of the shareholders of the Jupiter Cigarette & Tobacco Co. Ltd. held on 12-8-60 at 6 p.m. at No. 64, Lauries Road, Colombo? It says that Mr. Clive Abeywardena and Proctor Ranganathan were present?

A. I was there only on the day the deed was signed. There was no meeting on that day.

Q. If anybody says that you were present at 6 p.m. on 12.8-60 at the meeting you would quarrel with him ?

A. I would call him a liar. 10

(Mr. Samarakoon, at this stage, moves that the trial be adjourned as he has sent his Proctor for a document. Mr. Ranganadan objects. Mr. Samarakoon continues his cross-examination.)

Q. My instructions are that you were shown a draft of P1 before it was executed?

A. No.

Q. My instructions are that the draft was handed over to you and you consulted Counsel with your client Mr. Edirisinghe?

A. No.

Q. That you handed over to Mr. Ranganathan the correct draft? 20

A. No.

Q. My instructions are that Mr. Ranganathan attended your conference with your Counsel?

A. No.

(Mr. Samarakoon states that when he referred to counsel, he did not mean Mr. C. Ranganadan).

I did not consult any Counsel. I was never given a draft. It is absolutely false to say that.

Q. Did you discuss about it with Mr. Edirisinghe, thereafter?

A. No. 30

Q. With nobody?

A. No.

(Court : Q. Did you direct your mind to the question whether the loan was to Mr. Edirisinghe or to the Company?

A. I did not think.)

**Re-examination**

Nil.

Sgd. A. E. R. COREA  
Additional District Judge.  
14-7-65

WAKWELLA NANDADASA KASTHURISINGHE :

10 Affirmed, 36 years, Clerk, National and Grindlays Bank Ltd., 483, Wanatha Road, Gangodawila, Nugegoda.

Q. You have been summoned to produce certain cheques?

A. Yes.

I have brought with me the cheque No. 319051 dated 12-8-60 for Rs. 100,000/- which I produce marked D53. It has been paid. I produce a cheque No. 319069 dated 13-8-60 for Rs. 6,780/- marked D54, cheque No. 319063 dated 13-8-60 for Rs. 10,592/75 marked D55 (it has been paid); cheque No. 319087 dated 13-8-60 for Rs. 12,712/50 marked D56 which has been paid; cheque No. 319093 dated 19-8-60 for Rs. 5000/- marked D57; cheque No. 20 319082 dated 13-8-60 for Rs. 840/75 marked D58 which has been paid; cheque No. 319080 dated 13-8-60 for Rs. 4,237/50 marked D59, which has been paid; cheque No. 319060 dated 13-8-60 for Rs. 16,950/- marked D60, which has been paid; cheque No. 319079 dated 13-8-60 for Rs. 84/75 marked D61, which has been paid; cheque No. 319085 dated 13-8-60 for Rs. 4237/50 marked D62, which has been paid; cheque No. 319075 for Rs. 4,437/50 marked D63, which has been paid; cheque No. 319071 dated 13-8-60 for Rs. 4,237/50 marked D64, which has been paid; cheque No. 319094 dated 30-8-60 for Rs. 7,000/- marked D65, which has been paid; cheque No. 319096 dated 1-9-60 for Rs. 400/- marked D66, which has been paid; cheque No. 319095 dated 31-8-60 for Rs. 1,400/- 30 marked D67, which has been paid; cheque No. 319058 for Rs. 5,309/25 marked D68, which has been paid; cheque No. 319052 dated 13-8-60 for Rs. 14,831/25 marked D69 which has been paid; cheque No. 319056 dated 13-8-60 for Rs. 5,234/50 marked D70, which has been paid; cheque No. 319065 dated 13-8-60 for Rs. 54,240/- marked D71, cheque No. 319057 dated 13--8-60 for Rs. 1,695/- marked D72, which has been paid; cheque No. 382702 dated 2-9-60 for Rs. 354,000/- marked D73, cheque No. 382706 dated 12-9-60 for Rs. 20,000/- marked D74, which has been paid; and cheque No. 382707 dated 13-9-60 for Rs. 5000/- marked D75.

40 Q. The proceeds of cheques D73. D74 and D75 have been credited to the account of whom?

A. Mr. E. A. P. Edirisinghe in the same Bank.

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### Cross-examination

Shown cheque D73 : *Q.* Is it drawn by Jupiter Cigarette & Tobacco Co. Ltd. ?

*A.* Yes.

*Q.* The Director who has signed is Premalal Edirisinghe ?

*A.* Yes.

*Q.* It is drawn in his own favour ?

*A.* Yes.

It has been credited to his private account.

*Q.* What is the number of the account ?

10

*A.* At that time the accounts were not numbered.

*Q.* The Company account has been credited ?

*A.* Yes.

Shown D74 : It has been drawn by Jupiter Cigarette & Tobacco Co. Ltd. and signed for the Company by Mr. Premalal Edirisinghe.

*Q.* In whose favour ?

*A.* In his favour.

*Q.* He has got the proceeds credited to his private account ?

*A.* Yes.

Shown D75 : It has been drawn by the Jupiter Cigarette & Tobacco Co. Ltd. and Mr. Premalal Edirisinghe has signed it for the Company.

*Q.* I take it that the proceeds have been credited to his private account ?

*A.* Yes.

*Q.* And the Company debited ?

*A.* Yes.

The total is Rs. 379,000/-.

Shown D53 : It has been drawn by Premalal Edirisinghe. It is a cash cheque and cash has been paid over the counter, on 12-8-60.

(This witness is asked to bring to court the fixed Deposit Receipt No. M. E. 22197 on the next date of trial.)

Sgd. A. E. R. COREA  
Additional District Judge.  
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Further hearing on 1-10-65 and 12-10-65.

Sgd. A. E. R. COREA  
Additional District Judge.  
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10

1-10-65

(Trial resumed)

(Same appearances as earlier)

The 1st and 2nd Plaintiffs and the Managing Director of the Defendant-Company are present.

EDIRISINGHE ARACHCHILAGE PREMALAL EDIRISINGHE :

Affirmed, 34 years, Managing Director of Jupiter Cigarette & Tobacco Company, Colombo.

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I am the Managing Director of the Defendant-Company.

- 20 Q. What were the transactions you had before you became a shareholder of the Company?
- A. I gave loans.
- Q. What was the loan you gave?
- A. Rs. 50,000/-.
- Q. Did you have any other transactions?
- A. I lent another Rs. 50,000/- after that.
- Q. In regard to the 2nd Rs. 50,000/-, were you allotted any shares?
- A. Shares were allotted for Rs. 50,000/-.
- Q. That is how you became a shareholder of the Company?
- A. Yes.
- 30 Q. You had shares for Rs. 50,000/- and you were a creditor for a sum of Rs. 50,000/-?
- A. Yes.

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- Q. Did you become a Director of the Company thereafter?
- A. Yes, somewhere in 1960.
- Q. What was the position of the Company in about June and July 1960?
- A. The Company was to manufacture cigarettes.
- Q. Had the Company gone into production in June and July 1960?
- A. No.
- Q. Do you know why it was?
- A. It was due to lack of funds.
- Q. Was it suggested that funds were necessary?  
 What was the proposal? 10
- A. I made a proposal to them when the Company was not in production. It was that they must run the factory or otherwise they must sell all the shares to me.
- Q. You were not prepared to give any more money as loans?
- A. No.
- Q. Did you have any discussion with regard to the purchase of the shares?
- A. Yes, with Mr. H. R. Fernando, Dr. H. C. H. Soysa and Messrs. Selvanathan, Sivadas and Chapman. They were the shareholders of the Company.
- Q. Were you prepared to pay the full sum for the purchase of the shares by you? 20
- A. No.
- Q. What did you want them to do?
- A. I asked for a loan.
- Q. From whom did you ask?
- A. Dr. H. C. H. Soysa and Messrs. H. R. Fernando, Selvanathan and Chapman.
- Q. Did they agree to give a loan?
- A. They agreed. They were Messrs. H. R. Fernando, Selvanathan and Dr. H. C. H. Soysa. 30

*Q.* What was the amount wanted by way of a loan?

*A.* Rs. 175,000/-.

(To Court : I asked for a loan to buy their shares.)

*Q.* Did they lay conditions by way of security?

*A.* They wanted security.

*Q.* What was the security?

*A.* I told them that I could give my father's property No. 122, Ward Place, Colombo.

*Q.* Did they originally agree for you to give the Ward Place property?

10 *A.* Yes.

*Q.* As a result of their acceptance of Ward Place property as security, did you hand over the deeds to any one?

*A.* Yes, to Proctor Ranganathan. It was at the request of three major shareholders.

Shown D2. : I recognise it. It is the draft of the mortgage bond of my father's property.

*Q.* There is an endorsement at page 1 of D2?

*A.* Yes. It is "Draft for approval and return". It is dated 25-7-60.

The endorsement is by Proctor Ranganathan.

20 *Q.* Who has initialled it?

*A.* Proctor Ranganathan.

*Q.* Are you familiar with the handwriting of Mr. Ranganathan?

*A.* Yes.

*Q.* Are you familiar with his signature?

*A.* Yes.

*Q.* How did you get familiar with his signature?

*A.* It was after this transaction.

*Q.* Did he sign a number of documents?

*A.* Yes.

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- Q.* Ultimately what happened to the proposal to mortgage the Ward Place property?
- A.* They refused to give me the amount which I asked; that is Rs. 175,000/-.
- Q.* How did they offer to give you the loan?
- A.* When they refused to give me the amount I asked, I also refused to give any property.
- Q.* Why did you not want to give the Ward Place property?
- A.* That property is worth more than the amount I asked. It is worth about Rs. 2½ lakhs.
- Q.* How much were the major shareholders prepared to give you as a loan? 10
- A.* I wanted Rs. 175,000/-. I refused to give that property as security if they were not prepared to give me that amount.
- Q.* What happened after that?
- A.* They proposed another scheme after that.  
They suggested that they could give money on Lady Catherine Estate, Ratmalana.
- Q.* Whose property was that?
- A.* It belonged to the Jupiter Cigarette & Tobacco Co. Ltd.
- Q.* You agreed to that?
- A.* Yes. 20
- Q.* How much were you going to borrow from that?
- A.* Rs. 125,000/-.
- Q.* Out of the Rs. 125,000/- what was Dr. H. C. H. Soysa going to give you?
- A.* Rs. 57,000/-.
- Q.* Mr. H. R. Fernando?
- A.* Rs. 21,000/-.
- Q.* Mr. Selvanathan ?
- A.* Rs. 47,000/-.
- The total is Rs. 125,000/-.

*Q.* When did you agree upon the price for each share ?

*A.* It was prior to this transaction.

*Q.* How long ago ?

*A.* Discussions went on for some time.

*Q.* When did you finalise the price ?

*A.* About a week earlier.

*Q.* What was the price ?

*A.* Rs. 125,000/-.

*Q.* My question was about the price per share ?

10 *A.* Rs. 84/75.

*Q.* When was the agreement on the price Rs. 84/75 ?

*A.* The discussions went on and I cannot say the exact date.

*Q.* Did you meet the major shareholders in August 1960 ?

*A.* Yes.

*Q.* On what date ?

*A.* I met them on many occasions.

*Q.* What was the final date ?

*A.* 12-8-60.

*Q.* On what date and where did you meet ?

20 *A.* At Mr. H. R. Fernando's house, Lauries Road, Bambalapitiya.

*Q.* At about what time ?

*A.* 5.30 p.m.

*Q.* Whom did you meet on that occasion ?

*A.* Messrs. H. R. Fernando, Selvanathan, Chapman, Sivadas and Dr. Soysa.

*Q.* On that day, were any figures supplied to you ?

A. Yes.

They mentioned certain items as loans by Directors, loans by customers and some other payments due.

Shown D1, D1A, D1B and D1C:

Q. Were they given to you?

A. Yes, by Mr. Selvanathan.

Q. Can you tell the Court what happened at that discussion?

A. They gave me a document to show loans by Directors and their liabilities. Discussions went on like that.

Q. Ultimately what was the agreement about shares? 10

A. To pay at Rs. 84/75 per share. The loans of the Directors all sundry bills and also another Bank loan were to be paid.

Q. In addition to the Bank Loan, you were going to pay the loans?

A. Yes.

Q. Finally what was the arrangement arrived at between the shareholders and you?

A. Out of the total sum of Rs. 125,000/- I was to get, credit was to be given by Dr. Soysa Rs. 57,000/-, H. R. Fernando Rs. 21,000/- and Selvanathan Rs. 47,000/-.

Q. And the balance you were going to pay? 20

A. Yes.

Q. For this Rs. 125,000/- which you were to borrow from these 3 persons, did you agree upon a property to be given as security?

A. Yes, the land at Lady Catherine Estate, Ratmalana.

Q. What was the date fixed for the execution of the document?

A. 13-8-60.

Q. Was there a meeting of the Board of Directors of The Jupiter Cigarette Tobacco Co. Ltd. on 12-8-60?

A. No.

Q. Was there a general meeting of the Company? 30

A. No.

Q. Was Mr. Clive Abeywardene present on 12-8-60?

A. No.

Q. Was Mr. Ranganathan present?

A. No.

Q. Did you go to No. 64, Lauries Road, Bambalapitiya, on 13-8-60?

A. Yes.

Q. What time?

A. In the evening.

10 Q. Who went along with you?

A. Mr. Clive Abeywardene, my father and my mother.

Q. Why did your father and mother go?

A. It was because they told me on 12-8-60 that if this transaction were to be done, there must be two Directors of mine to sign the bond.

Q. Who were the Directors of the Company on 12-8-60?

A. Messrs. H. R. Fernando, Selvanathan, Chapman, Dr. Soysa and myself.

Q. They were going to sell all their shares?

A. Yes.

Q. Were they going to resign on 13-8-60?

20 A. Yes.

Q. Therefore new Directors had to be appointed?

A. Yes.

I wanted to appoint my father and mother as Directors.

Q. That was the reason you took your father and mother?

A. Yes.

Q. Why did you take Mr. Clive Abeywardene?

A. It was because my father cannot read or write English. There must be a person to explain everything to him.



*Q.* Could you tell the Court what happened on 13-8-60?

*A.* When I went with Mr. Clive Abeywardene, my father and my mother to No. 64, Lauries Road, Bambalapitiya on that day, Dr. Soysa and Messrs. Selvanathan, Sivadas and Ranganathan were there.

*Q.* What did Mr. Ranganathan do on that day?

He had prepared many documents. I came to know later on, that those documents were transfer share certificates, mortgage bonds and several other documents.

Shown D8: *Q.* Was D8 shown to you on that day?

*A.* Yes.

10

*Q.* By whom?

*A.* By Mr. Ranganathan.

*Q.* There are certain portions in D8 written in handwriting?

*A.* Yes. That is in Mr. Ranganathan's handwriting.

Shown D8A: There is a certain portion in the handwriting of Mr. Ranganathan.

Shown P11: *Q.* Was that one of the documents shown to you on that day?

*A.* Yes.

*Q.* Have you signed that document?

20

*A.* Yes.

*Q.* When did you sign that?

*A.* On 13-8-60.

(P11 is read). They are the minutes of a meeting held on 12-8-60.

*Q.* Was that meeting held?

*A.* No.

Shown P10: *Q.* Was that one of the documents shown to you on 13-8-60?

*A.* Yes. I have signed it.

(P10 is read) Q. P10 purports to be the minutes of a meeting of the Board of Directors held on 12-8-60; was there any meeting on that day?

A. No.

Q. Were there any transfer of shares effected on 12-8-60?

A. No.

Q. Was there any meeting of the Board of Directors held on 12-8-60 approving the shares?

A. No.

10 Shown D7 and D11 to D33. D7 was shown to me on 13-8-60. Mr. C. P. Sivadas is the transferor and the transferee is myself. The two witnesses are Ranganathan and Selvanathan. D11 is dated 13-8-60. The transferor is P. E. Dias and the transferee has not signed it. This was shown to me on 13-8-60.

Q. Do you know when it was signed?

A. No.

D12 was shown to me on 13-8-60. The transferor is K. Selvanathan.

Q. When did you sign it?

A. On 13-8-60.

20 The transferor in D13 is Dr. H. C. H. Soysa and the transferee is myself. I have signed it on 13-8-60. The transferor in D14 is Mr. H. R. Fernando and the transferee is myself. I have signed it on 13-8-60. D15 has been signed by the transferor V. M. de Mel. I have not signed it. I do not know when it was given to me. The transferor in D16 is Mr. Selvanathan. It was shown to me on 13-8-60. I have signed it on 13-8-60. It has been witnessed by Messrs. Sivadas and Ranganathan. S. C. K. Chetty is the transferor in D17. I am the transferee. I have signed it on 13-8-60. I do not know when the transferor signed it. Muwanwella Estate Company Limited is the transferor in D18. I have not signed it as transferee. I do not know when the  
30 transferor signed it. D19 has been signed by the transferor H. C. Peiris but not by me. It was shown to me on 13-8-60. D20 has been signed by the transferor H. G. Siromy and by myself. I have signed it as transferee on 13-8-60. I do not know when the transferor signed it. Mr. Selvanathan is the transferor in D21 and I am the transferee. I have signed it on 13-8-60. I do not know when the transferor signed it. H. A. V. Soysa is the transferor in D22. I have signed it on 13-8-60. I do not know when the transferor signed it. I have signed D23 as transferee on 13-8-60. H. C. E. Soysa is the transferor. I signed it on 13-8-60. I do not know when the transferor signed it. H. S. D. Soysa is the transferor in D24. I am the transferee. I

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have signed it on 13-8-60. I do not know when the transferor signed it. H. S. W. Soysa is the transferor in D25. I am the transferee. I have signed it on 13-8-60. I do not know when the transferor signed it. D26 was shown to me on 13-8-60. I have signed it on 13-8-60 but I do not know when the transferor signed it. The transferor is H. V. S. Soysa. The transferor in D27 is H. T. M. Soysa and I am the transferee. I signed it on 13-8-60. I do not know when the transferor signed it. H. J. C. Soysa is the transferor in D28 and I am the transferee. It was shown to me on 13-8-60. I have signed it on 13-8-60. I do not know when the transferor signed it. P. L. A. Soysa is the transferor in D29. and I am the transferee. I signed it on 13-8-60. I do not know 10 when the transferor signed it. P. I. H. de Mel is the transferor in D30. I do not know when the transferor signed it. I have not signed it in the body of the document. There is an amount of Rs. 14,831/75.

*Q.* Who has written that?

*A.* Mr. Ranganathan.

The transferor in D31 is Mr. Selvanathan. I have signed it on 13-8-60. I do not know when the transferor signed it. H. P. N. Soysa is the transferor in D32 and I am the transferee. I have signed it on 13-8-60. I do not know when the transferor signed it. Mr. Chapman is the transferor in D33 and I am the transferee. I have signed it on 13-8-60. Mr. Chapman has 20 signed it in my presence.

*Q.* Mr. Ranganathan has signed as a witness in D7, D12, D13, D14, D16, D17, D20, D21, D22, D23, D24, D25, D26, D27, D28, D29, D31, D32 and D33?

*A.* Yes.

I can identify his signature.

*Q.* All these transfer forms which you have referred to were shown to you on 13-8-60?

*A.* Yes.

*Q.* Some were signed and given to you on the very day? 30

*A.* Yes.

*Q.* Others were not signed and given to you?

*A.* No.

*Q.* Were the transferors present?

*A.* Each one took the documents saying that they would sign and send them to me.

**Q.** Some transfer forms were signed and given to you on the same day?

**A.** Yes.

**Shown** D51, D52, D54, D72.

**Q.** These are cheques issued on 13-8-60?

**A.** Yes.

**Q.** On account of purchase of shares and payments of liabilities?

**A.** Yes.

**Shown** P1. **Q.** When was that mortgage bond signed?

**A.** On 13-8-60.

10 **Q.** Look at page 1 of P1; was there a meeting of the Jupiter Cigarette and Tobacco Co. Ltd. on 12-8-60?

**A.** No.

**Q.** Was a resolution passed?

**A.** No.

**Q.** To borrow Rs. 21,000/- from H. R. Fernando or to borrow Rs. 47,000/- from Selvanathan?

**A.** No.

**Q.** You said you were going to borrow 3 sums of money aggregating to Rs. 125,000/-?

20 **Q.** Did you borrow any money from H. R. Fernando & Co. Ltd.?

**A.** No.

**Q.** Who was going to give Rs. 21,000/-?

**A.** Mr. H. R. Fernando.

**Q.** To whom did he agree to lend that money?

**A.** To me.

**Q.** Dr. Soysa, to whom did he agree to lend?

**A.** To me.

**Q.** Who agreed to lend Rs. 47,000/-?

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Defendant's  
Evidence

Evidence of  
E. A. P. Ediri-  
singhe —  
Examination  
— *Continued*

No. 9  
Defendant's  
Evidence  
—  
Evidence of  
E. A. P. Ediri-  
singhe —  
Examination  
— *Continued*

A. Mr. Selvanathan.

Shown P1, Q. The mortgagor is The Jupiter Cigarette and Tobacco Co. Ltd.?

A. No.

Q. Look at page 1 of P1, who is the mortgagor?

A. The Jupiter Cigarette and Tobacco Co. Ltd.

Q. The Jupiter Cigarette and Tobacco Co. Ltd. was mortgaging the property?

A. No.

I was mortgaging the property.

10

Q. Who borrowed the money?

A. I borrowed the money.

Q. From whom?

A. H. R. Fernando, Selvanathan and Dr. Soysa.

Q. Why was the name of the Company put down there?

A. They wanted me to do so.

Q. To whom did the property belong?

A. To the Company.

Q. Please see page 14 of P1; the second item refers to the Bank of Ceylon, Foreign Department — H. R. Fernando & Co. Ltd. How was the Rs. 21,000/- given by H. R. Fernando & Co. Ltd. and not by H. R. Fernando?

A. I do not know. Mr. H. R. Fernando gave me the cheque.

Q. So far as you were concerned, did you acknowledge any loan of H. R. Fernando & Co. Ltd.?

A. No.

Q. The 3rd cheque is Bank of Ceylon, City Office, for Rs. 47,000/- drawn by The Ceylon Finance Company?

A. Yes.

I do not know what. Mr. Selvanathan gave me the cheque.

30

*Q.* Did you negotiate any transaction with the Finance Company?

*A.* No.

*Q.* Did you borrow any money from the Finance Company or H. R. Fernando & Co. Ltd.?

*A.* No.

*Q.* The shares were transferred to you on 13-8-60?

*A.* Yes.

*Q.* Some transfer forms were signed on that day?

*A.* Yes.

10 *Q.* Did you take over any books of the Defendant-Company?

*A.* No.

*Q.* Were they handed over to you?

*A.* No.

*Q.* Did you take over any Minute books?

*A.* No.

*Q.* Have you any books of accounts of the period prior to 13-8-60?

*A.* No.

*Q.* You have books after you took over?

*A.* Yes.

20 Shown P9. *Q.* You have signed it?

*A.* Yes.

*Q.* On what date?

*A.* On 22-8-60.

*Q.* How did you come to sign it?

*A.* Proctor Ranganathan told me that certain documents were not signed on 13-8-60. (Mr. Samarakoon objects to this witness stating anything which Mr. Ranganathan is supposed to have told him. I over rule the objection. The witness is entitled to say what Mr. Ranganathan told him and what he himself heard from Mr. Ranganathan.)

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Evidence of  
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Examination  
—Continued

Mr. Ranganathan told me that certain documents had not been signed on 13-8-60 and he asked me to come to his office on 22-8-60. I went to his office and signed it. Shown Page 1 of P9.

Q. You find The Jupiter Cigarette & Tobacco Co. Ltd. written in ink. Whose handwriting is it?

A. Mr. Ranganathan's handwriting.

Q. The next page has been filled up by somebody?

A. It is Mr. Ranganathan's handwriting.

Q. On the last page you find columns 4 & 5 filled up in ink?

Who has written them?

10

A. Mr. Ranganathan.

Q. In D1 you find among the assets motor vehicles Rs. 22,585/-?

A. Yes.

Q. How many motor vehicles were given?

A. They gave me only one motor vehicle.

Q. What was that?

A. An Austin Van.

Q. Of what value?

A. 4,000/-.

Q. That was the only motor vehicle in the Company?

20

A. Yes.

Q. Was there a stock of tobacco?

A. Yes. The Tobacco was at the Cold Stores.

Q. What was the condition of the tobacco?

A. All the tobacco had deteriorated. I sold the tobacco later for Rs. 880/-.

Q. Was there any other material left at H. R. Fernando & Co. Ltd.?

A. There were cellophane paper, cigarette paper and aluminium.

I met Mr. Fernando when I started operations and told him that I removed all those articles. He told me that they did not belong to the Company. On that occasion I had to pay him and buy them because I had made an advertisement. I got only one motor vehicle. I sold the material for Rs. 880/-.

*Q.* Did the Defendant-Company borrow any money from Dr. Soysa or Messrs. H. R. Fernando & Co. Ltd.?

*A.* No.

**Cross-examination**

*Q.* You are a businessman?

10 *A.* Yes.

*Q.* You have been in the business for a considerable number of years?

*A.* Yes.

I was only 9 years of age in 1940. I started business in 1955.

*Q.* Besides other business, you had the business of pawn-broking?

*A.* Yes.

*Q.* What was the annual turnover?

*A.* About Rs. 10,000/-.

*Q.* For how long did you have pawn-broker's business?

*A.* Five years.

20 *Q.* You were in the furniture manufacture business?

*A.* I was.

*Q.* During which period?

*A.* Somewhere in 1955.

*Q.* What was the annual turnover?

*A.* There was no turnover and I gave it up.

The capital I spent was about Rs. 4,000/-.

*Q.* You were engaged in the "Jak-pot" business?

*A.* Yes.

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—Continued

Q. That brought a large income ; something in the region of a lakh of rupees ?

A. Yes.

Q. What is the business you are engaged in ?

A. At present in the business of a pawn-broker.

Q. You still have the "Jak-pot" business ?

A. The Government passed legislation and banned them all in 1959.

Q. When did you give the first loan of Rs. 50,000/- to the Defendant-Company ?

A. In 1959.

Q. On what interest ?

10

A. No interest.

Q. No security ?

A. No.

Q. When did you give the second loan ?

A. In 1960.

There was no security and no writing.

Q. On what interest ?

A. No interest.

Q. In August 1960, you had a large interest in this Company by reason of the fact that you had loaned a lakh of rupees ?

20

A. Yes.

Q. You had lent a substantial sum of money by 1960 ?

A. Yes.

Q. The Company had not gone into production of cigarettes ?

A. No.

Q. You were warned about the money given ?

A. No.

Q. You expected, in due course, to get money?

A. I wanted to run the Factory but not the money.

Q. You found the Factory not running in 1960?

A. Yes.

Q. You realized by 4-8-60 that the Factory would not run at all?

A. I did not expect.

Q. There was a man called Sivadas?

A. Yes.

Q. You were satisfied that he knew nothing about this business?

10 A. He knew to some extent.

Q. That the Factory would start production somewhere in August 1960?

A. I never expected it to be done by him.

Q. You were convinced that the Factory would not start in 1960 unless something was done?

A. Negotiations were going on to buy the remaining shares before production. I knew how to run the business if the transfers were completed.

Q. You had decided by 4-8-60 that unless you took over the Company and the Factory, that the Factory would never go into production?

A. I never expected that.

20 Q. You decided that the Factory could go into production if certain things were done?

A. If the Capital was there, it could have gone into production.

Q. The only draw-back was that it had no capital in 1960 to go into production?

A. Yes.

Q. It needed something near a lakh of rupees to go into production?

A. No.

Q. How much was necessary for the Factory to go into production?

A. About a couple of lakhs.

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ation  
—Continued

Q. How many lakhs of rupees ?

A. About two lakhs.

Q. Did the Company have that amount of money at that time ?

A. I do not know whether it had during that period.

Q. You were one of the Directors ?

A. Yes.

Q. You knew about the finances as a Director ?

A. No.

Q. Did you make inquiries ?

A. No.

Q. Did you try to find out ?

A. No.

Q. You got no information whatsoever ?

A. I asked the other Directors what was happening.

Q. You attended a number of meetings of the Directors ?

A. Yes.

Q. The finances of the Company was discussed at the meetings ?

A. No.

We did not go deep into it. I had Rs. 50,000/- shares and Rs. 50,000/-,  
loan.

20

Q. Did you raise any question at the Directors' meeting with regard to the question whether the Company could not go into production ?

A. I never attended the Directors' meetings.

Q. You had, therefore, to rely on what other members told you ?

A. Yes.

Q. You made up your mind in the middle of 1960 that if you took over the Company, you could run the factory into production ?

A. Yes.

Q. Would it be correct to say that by June 1960, if you had the factory, you could have put it into production?

A. I cannot remember.

Q. Would it be correct to say that somewhere in early 1960, you decided that?

A. I cannot remember the exact date.

Q. Would it be correct to say between 1-1-60 and 4-8-60?

A. Possible.

Q. You were not satisfied with the way the Company was being run with the existing Directors?

10 A. Yes.

Q. You felt that if the Directors were removed, it would be in the best interest of the Company?

A. No.

Q. You felt that if you were to take charge of the Company, you could run it better than the Directors?

A. I never thought so.

Q. You felt that if you took the sole control of the Company and owned all the shares, it would be the best way of running the Company?

A. Yes, I thought so.

20 Q. There were a number of shareholders who were sympathetic with your point of view of the matter?

A. No, I do not think so.

Q. Was Mr. Sivadas of that opinion?

A. No.

Q. Did you get any advice?

A. I have taken some instructions, from Sivadas. I did not consult persons about production. There were many officers in the Company who could produce cigarettes. I was interested in the leaf. I was interested with regard to the purchases.

30 Q. Who was doing the purchasing before August 1960?

A. I do not know.

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I got advice regarding the leaf, from Sivadas. I wanted the quality of the tobacco.

Q. You were interested on the leaf side?

A. Yes.

Q. That is obtaining tobacco for the Company to manufacture cigarettes?

A. Yes.

Q. On the leaf side you felt the need that you should make inquiries about it?

A. That I must get some knowledge regarding the leaf.

Q. You had no knowledge on the leaf side between 1-1-60 and 13-8-60? 10

A. I had a fair knowledge after 13-8-60.

Q. You had to get some advice apart from the advice you had to get from Sivadas?

A. I did not get any advice.

Q. Without any expert advice about manufacture, you decided to take over the Company and the Factory?

A. I wanted to run the Factory.

Q. You knew nothing about the manufacture of cigarettes prior to 13-8-60?

A. Yes.

Q. You decided to take over the Company and the Factory? 20

A. Yes.

Q. Before you made that decision, did you get any expert advice from anybody with regard to the manufacture of cigarettes?

A. The former Directors told me about the running of the Factory.

Q. Did you get any expert advice as to the running of the Factory and the manufacture of cigarettes prior to 13-8-60, before you decided to take over the Company and the Factory?

A. No.

Q. All you were concerned was to take control of the Company?

A. You mean the control of the Factory? 30

Q. Control of the Company?

A. I said that I was prepared to buy it.

Q. All you were concerned prior to 13-8-60 was to take control of it?

A. No.

Q. Did you decide to buy all the shares?

A. I thought that if my money was idling, the Company should run or close down.

I wanted all the shares.

10 Q. That was decided because you were dissatisfied with the way the Company was run by the then Directors?

A. Yes.

Q. By the means available, you were determined to buy all the shares?

A. I thought the best proposition was to invest on a Cigarette Company.

Q. You decided by whatever means available, you would take control of the Company by buying all the shares?

A. Yes.

Q. When did you make that decision?

Would it be correct to say between June 1960 and 4-8-60?

A. Between June and 12-8-60.

20 Q. For the purpose of making up your mind before you came to that decision, did you consult your father and mother?

A. No.

Q. Did you consult anybody other than your father and mother?

A. No.

Q. It was purely your decision?

A. Yes.

There was nothing to worry about it. I was a former Director.

Q. Did you consider about the finances of the Company before you took it over?

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A. Yes.

Q. You went into the accounts?

A. No.

Q. How then did you decide?

A. They gave me a statement of the liabilities. That was on 12-8-60.

Shown D1, D1A, D1B. Q Were they the documents?

A. Yes.

Q. You told the Court that the statement was given on 12-8-60?

A. No. It was given by Mr. Selvanathan.

Q. When?

10

A. Between July and August 1960.

Q. You realised from that the Company was in a very bad way?

A. Financially.

Q. The Company was indebted?

A. Yes.

Q. What was the total of indebtedness?

A. Loans by Directors Rs. 84,413/-.

Q. Was that the total of indebtedness?

A. No.

Q. What was the total of indebtedness according to D1?

20

A. About 230,000/-.

Q. In spite of the fact that the statement showed you that the Company was indebted to the tune of over Rs. 2 lakhs, you decided to take over the Company?

A. Yes.

Q. The document showed that the Company had no working capital?

A. Yes.

Q. There was immediately the need to find working capital to run the Factory?

A. Yes.

Q. That was in the region of Rs. 2 lakhs?

A. Yes.

Q. Prior to making the decision to take over the Company, did you look around to see from where you could get Rs. 2 lakhs?

A. I had Rs. 2 lakhs.

Q. You had Rs. 2 lakhs which you could put into the Company?

10 A. Yes.

Q. Could you have given more than Rs. 2 lakhs?

A. Yes.

Q. What was the limit?

A. Rs. 2½ lakhs.

Q. You were in a position to put in Rs. 2½ lakhs as working capital to the Company?

A. Yes.

Q. The problem was how you could immediately transfer the other shares?

A. Yes.

20 Q. You had meetings in June 1960 for the purpose of deciding how much was to be the transfer value of a share of Rs. 100/-?

A. The offer was Rs. 84/75.

Q. Was it in June 1960?

A. I cannot remember.

Q. Was it prior to 4-8-60?

A. I cannot remember.

Q. Was an agreement reached in June 1960 as regards the sale of shares?

A. In July 1960.

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Q. There were five major shareholders ?

A. Yes.

Q. Each of them represented a group of shareholders ?

A. Yes.

Q. The largest was that of Mr. Selvanathan ?

A. I cannot say exactly.

Q. For the purpose of buying the shares of the other shareholders, you negotiated with those five major shareholders ?

A. Yes.

Q. You were satisfied that if they agreed, the others would sell their shares? 10

A. Yes.

Q. Did you make an offer in June 1960?

A. I cannot remember.

Q. Did you make an offer firstly that out of the share value Rs. 50,000/- due to you be reduced ?

A. Negotiations went on ; I cannot say which way. I cannot remember.

Q. What was your first offer to the shareholders ?

A. It was to give my Ward Place property. It was in July 1960.

Q. Do you know that there is a difference between a loan to you and to a Company? 20

A. I do not know.

Q. Do you know that there is a difference between a loan to you and to your father ?

A. Yes.

Q. Did you think that a loan to the Company was a loan to you personally ?

(No reply)

Q. Prior to this investment in this Defendant-Company, you must have bought shares in other companies ?

A. No.

It was at the beginning of this case, after consulting my lawyers, that I knew what a limited liability Company is. Prior to that I did not know what a limited liability Company was.

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*Q.* I take it that you were under the impression that the Company and you were the same?

*A.* Yes.

*Q.* That it was your private property?

*A.* Yes.

*Q.* That you could do what you liked?

10 *A.* Yes.

*Q.* You and the Company were one and the same person?

*A.* Yes.

*Q.* In other words, you acted in that way?

*A.* Yes.

*Q.* You did not know earlier about Company law?

*A.* No.

*Q.* As a shareholder of Rs. 50,000/-, did you think that you and the Company were the same person?

*A.* No.

20 *Q.* Did you think that you could use the Company money as you wished?

*A.* When I buy it.

*Q.* As a shareholder of Rs. 50,000/-, did you think that the Company was yourself and that you could use Company funds for your own use?

*A.* There were other shareholders.

*Q.* When you decided to buy all the shares, your view was that you and the Company were identically the same person?

*A.* Yes.

*Q.* You did not, therefore, take legal advice on Company matters and Company Law?

30 *A.* No.

**Q.** As far as you were concerned, it did not matter to you whether you were mortgaging your shares to the Company or whether you were mortgaging Company land?

It did not matter to you whether your own property was given as security or whether Company property was mortgaged?

**A.** It did not matter till I got the loan.

**Q.** Your main purpose was to get the loan?

**A.** Yes.

**Q.** You decided, therefore, to give Company property after you became the sole owner of the shares? 10

**A.** That was decided by the former Directors and Mr. Ranganathan.

**Q.** Your first offer was your personal property?

**A.** My father's property.

**Q.** The plaintiffs were not prepared to accept that?

**A.** They were prepared to accept. They did not want my father's property for that amount.

**Q.** Security was not sufficient for Rs. 175,000/-?

**A.** Yes.

**Q.** If you used your personal funds Rs. 2 1/2 lakhs for the purchase of the shares, you would not have money to put into the working of the Com- 20  
pany?

**A.** I had money.

**Q.** Did you tell the Court that the limit you had was Rs. 2 1/2 lakhs?

**A.** Yes. I said that I want Rs. 2 1/2 lakhs to run the Company.

**Q.** You had enough money as working capital and to run the business?

**A.** Yes. I had about Rs. 5 lakhs.

**Q.** There was, therefore, no necessity for you to use Company funds to buy shares?

**A.** I could not follow the question.

**Q.** There was no necessity for you to use Company funds? 30

A. There were no funds in the Company at that stage.

Q. There was no necessity in August/September 1960 for you to use company funds to buy shares?

A. I am not in a position to answer that question.

Q. Is it that you do not understand?

A. (No reply).

Q. You cannot take money from the Company's Account to buy sweets for your children?

A. I think so.

10 Q. You cannot draw money from the Company's Bank and buy suits for yourself?

A. I think so.

I now know that it is an offence.

Q. You realize that you have taken Rs. 125,000/- from the Company?

A. That was not given to the Company. The loan was given to me.

Shown P2. Q. That was a cheque for Rs. 57,000/- drawn by Dr. Soysa as a part of the loan given on the mortgage bond P1? It was drawn in favour of the Jupiter Cigarette and Tobacco Co. Ltd.?

20 A. Yes.

Q. You knew that it had to go to the Company's Bank Account?

A. Yes.

Q. You were aware that that cheque could not be put to the private account?

A. Yes.

Q. You have endorsed the cheque for "The Jupiter Cigarette and Tobacco Co. Ltd." and signed as Chairman?

A. Yes.

30 Q. You accept that it was credited to the Account of the Jupiter Cigarette and Tobacco Co. Ltd.?

A. Yes.

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Shown P3. Q. It is a cheque for Rs. 21,000/- drawn in favour of the Defendant-Company?

A. Yes.

Q. You have endorsed it?

A. Yes.

Q. It has been credited to the account of the Defendant-Company in the same Bank?

A. Yes.

Shown P4. Q. It is a cheque for Rs. 47,000/- which was part of the consideration on P1 in favour of the Defendant-Com- 10  
pany?

A. Yes.

Q. You have endorsed it as "Chairman" and it has been credited to the same account?

A. Yes.

Q. When you got these cheques, you were quite aware that they were not in your favour but in favour of the Company?

A. Yes.

Q. They were not money given to you but given to the Company?

A. I think so.

20

Q. Why did you think so?

A. I had nothing to do with H. R. Fernando & Co. or with The Ceylon Finance Securities Ltd.

Q. Did you take the money from H. R. Fernando?

A. Yes. H. R. Fernando gave me the money, not H. R. Fernando & Co. I accepted the cheque because it was given by Mr. Selvanathan.

Q. Although you had nothing to do with these people and thought that they had no permission to give loans personally, you accepted these cheques?

A. Yes.

Q. It was clear that those drawers of cheques who had not given personal 30  
loans, have given loans in favour of the Jupiter Cigarette & Tobacco  
Co. Ltd.?

A. It was so written.

Q. You, therefore, put them to the Company account?

A. Yes.

Sgd. A. E. R. COREA  
*Additional District Judge*  
 1-10-65

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(Lunch interval)

Resumed after lunch. Same appearances.

EDIRISINGHE ARATCHIGE PREMALAL EDIRISINGHE, recalled, affirmed:

10 **Cross-examination** — contd.

I said I had no transaction with H. R. Fernando & Co. Ltd. or with Ceylon Finance and Securities Ltd.

Q. Normally, the person who borrows executes a mortgage in favour of the lender?

A. Yes.

Q. As far as you were concerned, neither H. R. Fernando & Co. Ltd. nor Ceylon Finance and Securities Ltd., was the lender?

A. Yes.

20 Q. Did it strike you to tell them that you were not borrowing any money from those two Companies?

A. On the evening of 13-8-1960, before I signed the document, I knew that these cheques were to be handed over by these two firms. I expected the loan from H. R. Fernando, Selvanathan and Dr. Silva.

I realised, when I got these two cheques, that the people lending the money were not the persons from whom I expected the loan, but their signatures were there. I could not refuse the cheques. I was compelled to take them. I did not read the deed prior to the execution of the deed. I knew what was in it on the 13th of August 1960. I read the deed on 13.8.1960. I do not sign a document without reading it. I know English. I read the deed and  
 30 I signed it. My father cannot read or write English. He had no education at all. He could not read even Sinhalese. I read the document, but I did not explain it to my father. I got my Proctor, Mr. Clive Abeywardena, to explain it to my father. The purpose of taking Mr. Abeywardena to the place was to get him to read and explain the document to my father. He was 55 years old then. My father did not tell me he wanted the deed explained. My father might have known Mr. Abeywardena by name. He did not know who he was. He was my lawyer for a number of years. I wanted Mr. Abeywardena to explain the deed to my father. Mr. Abeywardena took

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the document, P1, into his hands, before it was signed. Mr. Abeywardena read the document and explained the contents to my father. I was present then. My father did not ask him any questions. I read it before it was explained to my father.

(The witness is asked to read the first paragraph of P1 aloud, and he does so.)

The Jupiter Cigarette Company has been put down as the borrower and mortgagor. I realised that it was the Jupiter Cigarette Company that was borrowing and mortgaging the property.

Q. Not yourself?

10

A. They put it to me in this form.

Q. The borrower and mortgagor was the Defendant-Company?

A. Yes.

Q. You were not the borrower?

A. I took the money personally.

Q. When you read P1 in the way you read it now, you realized that you were not the borrower and mortgagor personally, but that the Defendant-Company was the borrower and mortgagor?

A. According to the mortgage, it indicated that.

I read the rest of the document too. (The second paragraph of P1 is 20 put to the witness.) I read the second paragraph and the following paragraphs also. (Paragraph 3 and the following paragraphs are put to the witness.)

Q. When you went on to read the document, you found that the Defendant-Company was mortgaging its properties to three persons who are not the Plaintiffs in this case?

A. They wanted me to do this. I asked them about it, and they said, "Why do you worry?" I was worried about the loan, not about who gave the loan.

Q. Did you ask them, "Why is the Company the mortgagor, and not myself"?

30

A. No.

Q. Did you ask, "Why should the Company mortgage the properties to H. R. Fernando & Co. Ltd. and Ceylon Finance and Securities Ltd?"

A. No.

*Q.* Having read the entire document, you signed it?

*A.* Yes.

*Q.* You knew that your father had to sign as he was a Director of the Company?

*A.* Yes — on the 13th of August 1960.

My lawyers did not tell me that. The lawyers asked me to bring my father. I do not know what Mr. Abeywardena told my father. I was present at the time. Mr. Abeywardena explained the deed to my father. I cannot recollect Mr. Abeywardena telling my father why he had to sign. On the  
 10 previous day they asked me to bring my father. They said there must be another Director to sign the bond, according to the Articles of Association. I had to accept the position. My father became a Director on 13-8-1960. I do not know who elected him a Director. They made all the arrangements and asked me to sign a document. I signed as Chairman of the Board of Directors.

*Q.* Who elected you Chairman of the Board of Directors?

*A.* They — Mr. H. R. Fernando, Mr. Selvanathan, Dr. Soysa and Mr. Chapman.

They elected me Chairman on 13-8-1960. They elected my father a  
 20 Director on 13-8-1960. (Shown D8 and D8a) I saw this document before I came to Court. It was with me. It was on the table on that day. I took it. All the papers were there and I took them. When the case was instituted, my lawyers wanted all documents. I found this document and I produced it. The lawyer asked me to find out what documents were available, concerning the case.

*Q.* Why did you take the document on 13-8-60?

*A.* As it was there.

*Q.* Did you take all the papers that were there?

*A.* I took the blank papers like this.

30 *Q.* This was not blank?

*A.* They had left it and thrown it away.

*Q.* Did you take any other document like this?

*A.* No.

*Q.* (Passage in D8, commencing “in terms of article 6” and ending “and accepted” is put to the witness.) Is that correct?

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 Defendant's  
 Evidence

Evidence of  
 E. A. P. Ediri-  
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 —Continued



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 Evidence of  
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 singhe —  
 Cross-Exami-  
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 — *Continued*

A. Yes.

(Shown P10) I did not see this document before I came to Court. I signed it on 13-8-1960. I saw it and read it.

(Passage in P10 commencing "In terms of article 6 of the Articles of Association" and ending "approved as shareholders" is put to the witness.) I read it.

Q. That is how your father and mother became shareholders of the Company?

A. Yes.

I was not aware of the facts of the Company. This was a transaction between the former Directors and myself.

Q. Did you ask them why it was necessary to do this?

A. No.

Q. You signed it blindly?

A. I signed it after reading it.

Q. Without knowing what it meant or its implications?

A. Yes.

Q. You were not concerned about knowing the implications and why it was necessary to do this?

A. Yes.

20

(Shown P11) This document was also there.

Q. According to P11, your father was appointed a director of the Company?

A. Yes.

I was aware of that date. I signed P11 as correct. I identify my signature on P11. According to P1, certain resolutions had been passed at a meeting held on 12-8-1960. Mr. Renganathan put up P1 for signature.

Q. Did you not tell him that this was not true, that there was no meeting on 12-8-1960?

A. It did not strike me to do so.

I did not realise the implications of the alteration of the date. It refers to a meeting of 12-8-1960. I did not bother about telling Mr. Renganathan that there was no meeting on 12-8-60. I did not know what was going to happen.

- Q.* When you read that, you realised that it was an incorrect statement?
- A.* The date did not strike me.  
I knew there was no meeting.
- Q.* Why did you not tell Mr. Renganathan, "I cannot sign this because it is not correct. There was no meeting on 12-8-60"?
- A.* They wanted me to do this. All the Directors were there. I did not expect such a thing to happen. I did not until I went there, know what was expected to be done.
- Q.* Although it is dated 12-8-60, you signed it?
- 10 *A.* The foot of the page refers to 13-8-60. (Mr. Samarakoon states that the witness indicates the date of attestation.)
- Q.* Do you say that you read it on the date of attestation?
- A.* I think so.
- Q.* You read the date 13-8-60 at the time you signed it?
- A.* I cannot remember.
- Q.* Can you read the words "date of attestation"?
- A.* I was not concerned.
- Q.* You thought 13-8-60, the date of attestation, and 12-8-60 in the third paragraph of page 1, were the same date?
- 20 *A.* I did not know.
- Q.* You thought that 12-8-60 on page 1, was a mistake for 13-8-60?
- A.* No. I cannot remember whether it was 12-8-60. I did not tell Mr. Renganathan that there was no meeting on 12-8-60. I did not tell him I could not sign it because it was a loan to the Defendant-Company, according to P1.
- Q.* Is it your position that you did not realise on 13-8-60, before you signed P1, that the mortgagor and borrower was the Defendant-Company?
- A.* It says so.  
I realised it when I read the document.
- 30 *Q.* Did you say, "I cannot sign this, because this is a loan to me, and not to the Company"?
- A.* No.

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Evidence

Evidence of  
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— Continued

- Q. Did you ask Mr. Abeywardena, "What is the meaning of this? The loan is to me personally"?
- A. We expected a mortgage. We did not know about the transactions of the Company, or dates and so on.
- Q. If you borrowed personally, your name should appear as the person borrowing?
- A. Yes. I knew the implications only on the 13th of August 1960.
- Q. What did you realise?
- A. I knew what it was, and it says so. The first paragraph says so.
- Q. On 13-8-1960, you realised that the borrower and the mortgagor was 10 the Company and not yourself personally?
- A. Yes.
- Q. If it was correct that you were the borrower personally, why did you not tell the lawyers, "I cannot sign this document, this is not a loan to the Company, this is a loan to me personally"?
- A. I was interested in the loan, not about the person lending.  
I was the borrower. I did not tell the lawyers to put my name down as the borrower.
- Q. When you read the document, did you realise what would happen if the Company did not pay its debts? 20
- A. Where.  
(To Court : I read the entirety of the document before I signed it.)
- Q. You read paragraphs (a) to (c)?
- A. Yes.
- Q. It says what will happen if the Company defaults?
- A. Yes.
- Q. You realised that the properties of the Company would be sold if the Company fell into default?
- A. Yes.
- Q. Did Mr. Abeywardena explain to your father that the properties of the 30 Company would be sold if default was made in the payment of moneys?
- A. He may have.

Q. You realised it personally?

A. Yes.

Mr. Abeywardena was taken there to explain everything to my father.

My father was not interested in this, but I was interested. A nominee of mine had to be a Director of the firm. I was interested in making my father know the contents of the document. I took Mr. Abeywardena there to explain the contents to my father.

Q. According to P1, the Company was indebted to H. R. Fernando & Co. Ltd. and not to Mr. H. R. Fernando?

10 A. According to the deed.

Q. You said earlier that you did not ask the lawyer why such a thing had to be put in?

A. Yes.

Q. It is also said in the document that the Company was indebted to "Ceylon Finance and Securities Ltd."?

A. Yes.

Q. You had nothing to do with those Companies?

A. Yes.

Q. Your transactions were with Mr. Selvanathan?

20 A. Yes.

Q. Did you ask Mr. Selvanathan why the name of the Company and not your name was put in?

A. I think I asked him.

Q. He must have explained it to you?

A. He did not explain.

Q. Did you not think it curious that he was not prepared to explain?

A. My aim was to get the loan of Rs. 125,000 from Selvanathan. Here was a cheque from such and such a firm. It would come to Rs. 125,000/-, and that was all I was worried about.

30 Q. Did you ask your lawyer why Ceylon Finance and Securities Ltd. was put down when you were not borrowing from them?

A. No.

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Evidence of  
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*Q.* Yet, you signed it?

*A.* Yes.

*Q.* You realised it was a loan from the three mortgagees mentioned in it to the Jupiter Cigarette Co., the mortgagor?

*A.* I did not realise then why the names of those two firms were put down — not on 13-8-1960.

*Q.* You did not understand that till the case was instituted?

*A.* Yes.

*Q.* It did not strike you to ask them or Mr. Abeywardena?

*A.* Yes.

10

*Q.* The first time you asked this question was when you went to counsel to draft the answer?

*A.* Yes.

*Q.* You thought it was your personal loan during all that time?

*A.* Yes.

(Shown a document dated 30-8-62) I identify my signature on it.

(The document is marked P12)

*Q.* You have said there, "a sum of Rs. 254/50 as interest due from 13-5-62 to 12-6-62?"

*A.* Yes.

20

*Q.* You sent that on behalf of the Jupiter Cigarette and Tobacco Co. Ltd.?

*A.* Yes.

*Q.* You signed it as Chairman?

*A.* Yes, on my letter-head.

*Q.* You signed it for the Company?

*A.* Yes.

*Q.* It is a payment from the Company as interest on the mortgage?

*A.* Yes.

(Shown P13, P14 and P15) I identify my signature on these documents.

Q. The moneys were remitted by you on these documents as Chairman of the Defendant-Company?

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A. They instructed me on 13-8-60 to send the interest to Selvanathan. I sent the first cheque on account of interest to him. He returned it and asked me to sign in favour of the two firms and Dr. Soysa, and send the cheque to them, not to Selvanathan.

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(To Court: Proctor Renganathan instructed me to do that. I sent the cheque to Selvanathan. Selvanathan wrote to me to send the cheque personally to those three persons and not to him.)

10 Q. You sent that on behalf of the Company?

A. Yes.

(Shown a document dated 13-8-60) I identify my signature on the stamp. (The document is marked P16).

(Shown a document dated 29-5-61) I identify my signature on it. (The document is marked P17).

(Shown a document dated 15-2-62) I identify my signature on it. (The document is marked P18).

(Shown a document dated 17-3-62) I identify my signature on it. (The document is marked P19).

20 (Shown a document dated 9-6-62). I identify my signature on it. (The document is marked P20).

(Shown a document dated 18-11-62). I identify my signature on it. (The document is marked P21).

Q. On those documents you have sent money on account of interest on behalf of the Defendant-Company?

A. Yes.

(Shown P16) This is a receipt for Rs. 47,000/-. I have signed it on behalf of the Defendant-Company, as a Director. It is a receipt in favour of Ceylon Finance and Securities Ltd.

30 Q. That is what you indicated when you signed it?

A. I was asked to sign it.

Q. You signed it because it was correct?

A. I signed it when this was put up for signature, in order to get the cheque.

Q. You signed it because it was correct?

A. I do not know whether it was correct or not, but it has my signature.

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*Q.* Would you have signed a receipt for Rs. 47,000 unless it was a correct receipt?

*A.* It bears my signature.

*Q.* (Question repeated) *A.* The cheque given by Selvanathan indicates the number. The money was given by Selvanathan, Rs. 47,000/-, and I had to give the receipt.

The cheque was given by Mr. Selvanathan. The receipt was not in favour of Mr. Selvanathan.

*Q.* Why did you sign a receipt which was incorrect?

*A.* I was worried about the loan. 10

*Q.* You did not care what document you signed, as long as you got the money?

*A.* Yes.

*Q.* You did not care about who mortgaged as long as you got the sum of Rs. 125,000?

*A.* Yes.

*Q.* You did not care whether the Company's properties were mortgaged, so long as you got your hands on that amount?

*A.* As long as they were prepared to give the loan to me.

*Q.* You did not care whether the property mortgaged the properties, as long as you were able to get the sum of Rs. 125,000? 20

*A.* I had already got the sum of Rs. 125,000.

*Q.* Did you get it before you signed the document?

*A.* No.

*Q.* You did not care whether the Company mortgaged its properties, as long as you were able to get Rs. 125,000 on that mortgage, into your hands?

*A.* Yes.

*Q.* Having got that money, you put that money into the Company's account?

*A.* Yes. 30

*Q.* And started drawing out for your private needs?

*A.* Because I had lent my private money to the Company.

Q. Because you had lent your private money to the Company, you started drawing this out for your private purposes?

A. Yes.

I thought there was nothing wrong in taking the Company's money for my personal use, as I had lent my money to the Company.

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Q. Cheque D73 was drawn by you on the funds of the Defendant Company and credited to your private account?

A. Yes.

10 Q. Was that for the purpose of paying a loan that the Company owed you?

A. This was withdrawn to be paid to the Bank.

Q. It is drawn in your favour?

A. Yes.

Q. Was it credited to your account?

A. Yes.

Q. The Defendant Company's moneys went into your private account?

A. Yes.

Q. For the purpose of paying a loan of yours?

A. Yes.

20 (Shown D74) It is a cheque for Rs. 20,000/-.

Q. There also the Company's moneys were drawn and credited to your private account?

A. Yes.

Q. (Shown D75) D75 for Rs. 5000 was drawn and credited to your private account?

A. Yes.

Q. Those too were for the purpose of paying loans due to you?

A. Yes.

Q. You utilised Company moneys to reimburse yourself?

30 A. I had paid private money for the purposes of the Company.



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*Q* Five lakhs of rupees?

*A* Not so much.

I cannot give the figure involved, off-hand.

(Shown D51 to D72).

*Q* Those are all cheques you drew on your account for the purpose of paying the consideration on the shares purchased by you?

*A* Shares and loans.

*Q* For the purpose of meeting these cheques, did you utilise the funds of the Company?

*A* Yes. 10

*Q* This Company was really a one-man concern—your private property?

*A* Yes.

*Q* Considering it your private property, you used it for your private purposes?

*A* Yes.

*Q* The other share-holders were your father and your mother?

*A* Yes.

*Q* They do not know what you are doing with the funds of the Company?

*A* Yes.

*Q* Nor did you tell them? 20

*A* Yes.

*Q* Would it be correct to say that what the Company borrowed from the plaintiffs was really money for the Company to be utilised by you?

(Mr. Renganathan objects to the question. I disallow it.)

Sgd. A. E. A. COREA  
*Additional District Judge.*  
1-10-65

*Q* As a Director of this Company, you were running the Company in accordance with the rules of the Companies Ordinance?

*A* Yes. 30

*Q.* One of the things the Companies Ordinance required the Company to do was to send annual returns showing some, if not all, the affairs of the Company?

*A.* Yes.

*Q.* Certain details of the Company had to be sent?

*A.* Yes.

*Q.* Under the Companies Ordinance you had to send it before a particular date?

*A.* Yes.

<sup>10</sup> *Q.* You had to answer the questions very truthfully?

*A.* Yes.

*Q.* There is a particular form and on that form you must enter certain particulars and answer certain questions truthfully?

*A.* Yes.

*Q.* Did you answer them truthfully?

*A.* Yes.

*Q.* All the forms you sent had those facts?

*A.* Yes.

(Shown P6) This is one of the forms I sent to the Registrar of Companies.

<sup>20</sup> *Q.* Look at the last column, under paragraph 22. (Put to the witness). You read it before you signed it?

*A.* Yes.

*Q.* You put down Rs. 125,000 against that?

*A.* Yes.

*Q.* That is the amount due on bond P1?

*A.* Yes.

*Q.* That is correct?

*A.* Yes.

*Q.* You showed those particulars every year thereafter?

<sup>30</sup> *A.* Yes.

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*Q.* You still show it in your annual returns as a debt of the Company?

*A.* Yes.

*Q.* In form 13, P9, you disclosed the mortgagees in respect of that loan?

*A.* Yes.

*Q.* They are the plaintiffs in this case?

*A.* Yes.

*Q.* That is correct?

*A.* Yes.

The company has now been sued for Rs. 125,000.

*Q.* The Company is not producing any cigarettes?

10

*A.* Yes.

*Q.* It has not been producing any cigarettes for a number of years?

*A.* For how many years?

*Q.* From the time it was incorporated?

*A.* I was producing cigarettes during my time, after my purchase.

I produced cigarettes for two years and sold them at 8 cents each.

I have a profit, but I cannot say how much profit I made.

*Q.* Was it a profit or a loss during the two years?

*A.* It was a loss during the first year.

*Q.* It must have been a profit in the second year?

20

*A.* A small profit.

*Q.* What profit?

*A.* Is it necessary?

*Q.* Is there anything you do not wish to disclose?

*A.* No.

*Q.* How much profit did you make?

*A.* I was unable to pay even the interest — that was the profit.

*Q.* What was the profit ?

*A.* From the day I took up the Defendant Company there were many cases instituted against me.

*Q.* So there was a loss even during the second year ?

*A.* Yes.

*Q.* It has been run at a loss from the inception of the Company upto date ?

*A.* Yes.

*Q.* It has become a liability ?

*A.* Yes.

<sup>10</sup> *Q.* You have to maintain the machinery ?

*A.* Yes.

*Q.* You spent out of your pocket to maintain it ?

*A.* Yes.

*Q.* You have to maintain the building ?

*A.* Yes.

*Q.* Pay the staff and watchers ?

*A.* Yes.

*Q.* You paid out of your pocket every year ?

*A.* Yes.

<sup>20</sup> *Q.* It had become a very bad investment, as far as you were concerned ?

*A.* Yes.

*Q.* You wished you had never invested in it ?

*A.* Certainly.

*Q.* Therefore the Company is unable to pay the debt of Rs. 125,000/- ?

*A.* The Company did not take the loan. I took the loan. I have to pay.

*Q.* You have enough money on your own account ?

*A.* Yes.

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*Q.* You have well over 5 lakhs of rupees in your Bank ?

*A.* I agree with you.

*Q.* If you are so minded, you can pay this loan up by one cheque ?

*A.* Yes.

*Q.* Why do you not pay ?

*A.* Because they gave me false information — how can I pay ?

*Q.* Although it was a personal debt, you will not pay because they gave false information ?

*A.* It had nothing to do with the Company, which they said it had.

I still say it is not a debt of the Company. The Company cannot pay, 10 even if it wants to pay. I do not know that the law is that the plaintiffs can proceed against the Company alone. The lawyers told me that. They can take the property of the Company, not my property. I took it as a loan to me, and it had nothing to do with the Company. The bond indicates that it is a loan to the Company. I borrowed the amount as Chairman of the Jupiter Cigarette Co.

*Q.* You say now that the borrower is the Chairman of the Jupiter Cigarette Co. ?

*A.* As Chairman, in my personal capacity.

*Q.* Are you prepared to pay personally, if the plaintiffs get judgment? 20

*A.* I cannot say.

*Q.* I put it to you that you decided on this defence when you found that the Company had no moneys to pay on the mortgage bond P1 ?

*A.* They gave me 3 years to pay, according to the bond.

*Q.* Three years have passed ?

*A.* Yes.

*Q.* The Company has not paid it yet ?

*A.* I thought I would never pay this because they gave me false information about the stock.

*Q.* You say that the plaintiffs are not entitled to judgment in this case 30 because they gave wrong information ?

*A.* And, furthermore, it was a personal loan to me.

They gave me wrong information on the documents D8a to D8d.

**Re-examination.**

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I was shown P12 to P15. They were letters sent by me to the 3rd plaintiff, forwarding interest. I was also shown the receipt, P16 for the receipt of the sum of Rs. 47,000/- from the 3rd plaintiff. I was also shown P17 to P21, letters forwarding interest to the 3rd plaintiff. (Shown D35) Dr. H. C. H. Soysa, the 1st plaintiff, has signed D35. It has been made out in my name, personally. (D35 put to the witness). (Shown D36) The 1st plaintiff has signed it. It is a letter addressed to me personally. (D36 is put to the witness.) Originally, I sent the interest to Selvanathan, and he distributed it among  
 10 Dr. Soysa, Mr. H. R. Fernando and Mr. Selvanathan.

D 36 refers to the fact that Selvanathan had paid Dr. Soysa Rs. 318/75 as interest. (Shown D37) Dr. Soysa has signed it, and it is addressed to me personally. (Shown D38) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D 39) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D40) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D41) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D42) Dr. Soysa has signed it and it has been addressed to me personally.

(Shown D43) Dr. Soysa has signed it, and it has been addressed to me  
 20 personally. (Shown D44) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D45) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D46) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D47) Dr. Soysa has signed it, and it has been addressed to me personally. (Shown D3), That is a receipt which has been made out by H. R. Fernando & Co. Ltd. in my favour, personally. (Shown D4) D4 was made out by H. R. Fernando & Co. Ltd. in my personal favour. (Shown D5) D5 was made out by H. R. Fernando & Co. Ltd. in my personal favour (Shown D6) D6 was addressed to me personally, by  
 30 Mr. H. R. Fernando, Managing Director, with reference to the bond sued upon. I had moneys of my own in my Bank account at that time. I had a fixed deposit of Rs. 300,000/- in the National and Grindlays Bank Ltd. I have summoned an officer of the Bank to produce the fixed deposit receipt.

(A representative of the National and Grindlays Bank Ltd. hands over to Counsel a fixed deposit receipt dated 26-7-1960 for Rs. 300,000/-.

It is marked D76).

I withdrew that deposit in the same month. I did not have that fixed deposit in August 1960. No, I have made a mistake; D76 shows that I withdrew it on 25-7-1961.

Q. It was repayable on 25-7-1961?

40 A. Yes.

Q. When did you withdraw it?

A. I cannot say.

(Shown a file) I withdrew it in August 1960, to pay for the shares.

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- Q. What about the balance?  
A. They gave me Rs. 125,000/.  
Q. The balance of the fixed deposit?  
A. I withdrew the whole amount.

(Shown P6, P7 and P8) I disclosed the loan of Rs. 125,000/- because Proctor Renganathan obtained my signature in respect of the sum of Rs. 125,000/-, and I had to show it, according to Company Law. I had shown the loan of Rs. 125,000/- year by year.

Sgd. A. E. R. COREA  
Additional District Judge 10  
1-10-65

Mr. Ranganathan closes his case, reading in evidence D1 to D76.

Mr. Samarakoon states that he does not insist on formal proof of the documents which were marked subject to proof.

Addresses on 3-12-1965.

Sgd. A. E. R. COREA  
Additional District Judge  
1-10-65

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## No. 10

### ADDRESSES TO COURT

20

3-12-65.

Mr. Adv. N. Samarakoon instructed by Mr. M. Ranganathan for the Plaintiffs. Mr. Adv. S. Nadesan, Q.C., with Mr. Adv. B. J. Fernando instructed by Mr. A. C. Abeywardene for the Defendant.

Mr. Samarakoon wishes it recorded that the Plaintiff's Proctor Mr. Ranganathan, left the court on the occasion stated in the record at the request of the Defendant's Counsel as the Defendant's Counsel said that he would be calling Mr. Ranganathan as a witness.

Mr. Nadesan states that according to his instructions, Mr. Adv. Renganathan Q.C., merely stated that the Plaintiff's Proctor should not be in 30 Court.

Mr. Nadesan addresses the Court: The Plaintiffs have instituted action on a Mortgage Bond dated 13.8.60 marked P1. (It is read.) So far as the Bond is concerned, the Bond relies on a resolution passed at a meeting on 12.8.60, to borrow this sum of money. There was no resolution passed on 12.8.60. The resolution was signed and the documents were prepared subsequently

to enable the Plaintiffs in this case to lend various sums of money for the purpose of obtaining from the Company a Mortgage Bond. There is a doubt with regard to the genuineness of the transaction. The position taken by the Defendant-Company was this : The Company had been commenced anterior to August 1960, and found that there were difficulties in the way of finances. Negotiations took place in 1960 between Mr. Edirisinghe, Dr. Soysa, Messrs. Fernando and Selvanathan and there was an agreement arrived at. Mr. Edirisinghe was to purchase all the shares from others. The agreement was that not only Mr. Edirisinghe should pay for the shares, that all moneys due 10 should also be paid and other liabilities of the Company. Mr. Edirisinghe was not in possession of the entire sum Rs. 380,000/-. Accordingly he asked the various Directors of the Company to give him accommodation to the extent of Rs. 125,000/-. These Directors were willing to give Rs. 125,000/- but they were faced with a difficulty of having to obtain adequate security from the Company. This Company was not able to borrow money for the purpose of purchasing the shares. The Directors wanted to get a mortgage and make the payment of Rs. 125,000/- to the Company on the basis that they were advancing Rs. 125,000/- and accordingly they decided to enter into a Mortgage Bond. These Directors were selling their shares and retiring. 20 All these Directors are supposed to have lent money to this Company and the shareholders who supported them sold their shares and received cheques. The case of the Defendant-Company is that there was no meeting on 12.8.60 and that there was no resolution passed on 12.8.60. Because it became necessary to get security from the Company, it became a legal necessity that it should be based on such a resolution and therefore certain minutes were drafted indicating that such a resolution was passed on 12.8.60, signed by the various Directors including Mr. Edirisinghe and thereafter this document, the Mortgage Bond, was executed. There was no resolution. A transaction was entered into. Documents were signed showing that a meeting took place 30 which in fact did not take place. There was no such resolution passed. All Directors got together to give credit to Mr. Edirisinghe in a sum of Rs. 125,000/-. The price per share of Rs. 100/- was Rs. 84/75. D1, D1A, D1B and D1C set out the assets of the Company. Subsequently it was found that these stocks which were supposed to be in existence were not there. (Refers to issue 6 on the question of misjoinder). A Bond means an obligation created by a deed. (Cites Law of Pledges and Mortgages in South Africa, by George Wille. 1920 Edition, page 6.) There is not one obligation in P1 but there are three obligations. There is no passing of these sums of money and making payable jointly or severally. (Cites 33 N.L.R., 319 at 322). 40 (Refers to Section 65 of the Mortgage Act.)

This Bond clearly sets out that three sums of money have been borrowed from three persons. This clearly is not contemplated by Section 65 of the Mortgage Act. (Cites 9 N.L.R., page 68). There was a misjoinder of parties. Was there in point of fact a resolution passed by the shareholders of this Company for the obtaining of a loan from these different persons as set out in P1 and also in the minutes of a meeting alleged to have been held on 12.8.60 which had been signed by certain shareholders? Was there such an extraordinary general meeting on 12.8.60? Was a sum of Rs. 125,000/- raised for the purpose of the Company or was this devised for the purpose of giving credit to Mr. 50 Edirisinghe in respect of a sum of Rs. 125,000/- which he required to enable



him to purchase the shares of the Company, from the various shareholders who were transferring their shares? (Refers to D48, the Articles of association of the Company). Article 15 deals with the powers and duties of the Directors. It expressly excludes Table "A" of the Companies' Ordinance and substitutes Regulation 59, Table "A", Nos. 69 and 69(a). The resolution is something which is supposed to have been passed at an extra-ordinary meeting. There was no need for an extra-ordinary meeting under the Articles of Association, with regard to the moneys to be raised. For the purpose of the Mortgage Bond being executed, it became necessary to pretend that a resolution had been passed. There should be at least 21 days notice given to the share holders of 10 the Company. (Refers to section 115 of the Companies' Ordinance). Members of the Company means the shareholders. Apart from Mr. H. R. Fernando who was apparently at the time of the alleged meeting the Chairman of the Company, there were various other persons who were shareholders of this Company. (Page 12 and 13 of the evidence are read). From this evidence and the way H. R. Fernando gave the evidence, the Plaintiffs' Case is that not only a meeting of the shareholders was held but there were two meetings of the Directors. Notice in respect of the extra-ordinary general meeting has not been produced. What the witness referred to is an official meeting. He has spoken to the presence of the persons at that official meet- 20 ing. He says notice has been sent but this notice has not been produced. If this happened, none of the shareholders except Mr. H. R. Fernando, Dr. Soysa and Mr. Selvanathan were interested in this loan transaction. Not one of these persons has been called to say that they were called for an extra-ordinary meeting on 12.8.60. One has been called who is not a shareholder. He is the son of a shareholder. (Page 42 of the evidence). What is the use of calling the son of a shareholder about some meeting held at which his father was present? There are other shareholders. If that evidence is true, that could have been supported by other shareholders. If there was a meeting of the shareholders, notice should be given. That notice would 30 specify the time, place of the meeting and the business to be transacted. Persons who cannot be present may appoint by proxy anybody else to be present. In the minutes of the shareholders, the names of the persons present at the meeting should be put down. Mr. Abeywardene says that there was no such meeting at which he was present. Mr. Abeywardene says that there was no such meeting. The only occasion he was present was on 13.8.60 for the purpose of explaining the Mortgage Bond to Mr. Edirisinghe's father who did not know English. Refers to the evidence after the lunch interval on 13.7.65 - Page 15.

**Q.** You told the Court this morning that all the shareholders were present 40 except Mr. Menon and Mr. Meera Saibo?

**A.** Not all. "The shareholders were present.

H. R. Fernando first says "not all" and immediately then he says "The shareholders were present." He also says that the shareholders were represented by leaders of groups, and that they did not stay up to the last minute. Having given one answer in the morning, he comes with a different story after the lunch interval. The leaders were given permission to act. There are two ways in which one can act; use the vote or give a proxy. (Refers to the evidence at page 6):

"Q. Can you tell who invited Mr. Ranganathan?"

A. The Jupiter Cigarette and Tobacco Co. Ltd."

No. 10  
Addresses to  
Court  
—Continued

(Refers to the evidence at page 16). Mr. Ranganathan represented three of us, i. e. H. R. Fernando, Selvanathan and Dr. Soysa. If I said in the morning that Mr. Ranganathan represented the Defendants, it is a mistake." The Court should consider this witness's evidence on the various contradictions in his evidence. If there was an ordinary general meeting on 12.8.60, how comes it that this witness and only one shareholder has been called to give evidence when there are a large number of shareholders. Do not all  
10 the circumstances point to one fact, that is that there was no such meeting and on the contradictions of this witness's evidence, one finds that he was trying to give evidence with regard to an incident which did not take place and accordingly he had got into difficulties? There is the evidence of Mr. Edirisinghe and Mr. Abeywardene that there was no meeting. The Court should hold that there was no meeting of any kind on 12.8.60. Dr. Soysa is the 1st Palintiff in this case. He should have got into the witness box and given evidence. Dr. Soysa's and Mr. Ranganathan's names are there in the list of witnesses. Neither of them has come to give evidence. P5 states that E. A. S. Appuhamy and U. Podihamine were present at the meeting on  
20 12.8.60. The documents in this case conclusively establish that E. A. S. Appuhamy and U. Podihamine became shareholders of the Company on 13.8.60. According to D7, the transaction has been on 13.8.60, and the witnesses to D7 are Selvanadan and M. Ranganathan. (Page 12 of the evidence).

(Sgd.) A. E. R. COREA  
Additional District Judge  
3-12-65.

(Lunch Interval)

(Resumed after the Lunch Interval).

(Same appearances as earlier)

30 Mr. Nadesan continues his address:

D7 has been signed by the transferor Mr. Sivadas. It would appear from D7 that Podihamine and Appuhamy became the shareholders for the first time on 13.8.60. How comes it that in P5, these two - Podihamine and Appuhamy - are referred to as two shareholders who have been present at a meeting on 12.8.60. How would it have been possible for these persons to have been given notice of an extra-ordinary general meeting at the time they were not shareholders? D8 - They are the draft minutes of the meeting of the Board of Directors alleged to have been held on 12.8.60, and the draft minutes of the extra-ordinary general meeting alleged to have been held has been marked  
40 D8a. These have some corrections made by Mr. Ranganathan. The Proctor for Plaintiff left the Court at the instance of the Defendant is correct. Apparently at that stage Counsel for the Defendant had undertaken to prove a number of documents including D8 and D8a. D8 and D8a both appear

on the same sheet of paper. The draft minutes would be prepared at the end of the meeting and ordinarily would have the signature of the Chairman and the Secretary. If one looks at D8a which had apparently been typed at some stage, this D8a says not one word about the finances which are referred to in P5. A draft had been prepared of a meeting which had not taken place. A resolution appears in P5 authorising the raising of a loan aggregating to Rs. 125,000/- and the giving of a mortgage in respect of that loan does not find a place in D8a. The unsatisfactory evidence by the only shareholder who has been called as a witness to speak to what happened at this so called extraordinary general meeting appears at pages 12, 13, 14, 15, 16 and 17.<sup>10</sup> His evidence cannot be accepted because of the artificial way he has given evidence. He referred to a number of shareholders except two before the lunch interval but this is contradicted by P5. (Refers to the evidence at page 6). This witness has said that Mr. Ranganathan represented the Jupiter Cigarette and Tobacco Co. Ltd. That is contradicted by the evidence at page 16. He has said that notices were sent for this so called extra-ordinary general meeting. The first Plaintiff in this case was a shareholder at that time who would have received a notice. He did not get into the witness box and say that he received a notice. Mr. Selvanathan and the others too have not given evidence. The Plaintiffs have called Mr. Chapman. (Page 42 of 20 the proceedings.) This evidence clearly indicates that this gentleman's evidence cannot be of much assistance to the Plaintiffs. (His evidence is read.) He has said that D50 was signed on 13.8.60. In D33 the date has been altered to 13th. All the other transfer forms are dated 13th but D 33, though Mr. Chapman says that his father signed it on the 13th, had been altered to 12.8.60. D51 and D52 are dated 13.8.60. Mr. Chapman's evidence is of no assistance to the Court in view of the contradictory nature of his evidence. Independent witnesses should have been called to give evidence with regard to the fact that notices have been sent and that a meeting was held. Mr. Edirisinghe's evidence is that security in respect of Rs. 125,000/- by way of 30 credit was to be secured by a mortgage of the property belonging to the Company. For that purpose it became necessary to hand over the mortgage Bond in the name of the Company. A document was drawn up and Mr. Edirisinghe along with other persons have signed it, not anticipating all these difficulties would arise. It was discovered later that in respect of this transaction an erroneous position had been disclosed with regard to the stock. There was no meeting as indicated in P5. Apart from Mr. Edirisinghe's evidence, there is the documentary evidence which shows that what Mr. Edirisinghe says is true, not only to the fact about the date of the meeting but that all these transactions were entered for securing the money for which he was 40 getting credit. That document is D2, which is an earlier draft dated 20.7.60. There is an endorsement on page 1 of D2 at the left hand top corner - "For approval and return". At that time the mortgage was to be given by Mr. Samuel Appuhamy, the father of Mr. Edirisinghe. Mr. Edirisinghe says that there was no such meeting. The parties decided to have the transaction not with Mr. Samuel Appuhamy but with the Company. This document was drafted as if there was a meeting. Apart from Mr. Edirisinghe's evidence, in P5 it is mentioned of a meeting of the shareholders on 12.8.60, when Clive Abeywardene and Ranganathan were present on invitation. Mr. Clive Abeywardene's evidence is at page 45. (His evidence is read). He had 50 been to the bungalow of Mr. H. R. Fernando on 13. 8. 60, the day the

deed was signed. The infirmities in P5 and D8a have already been referred to. In that state of affairs, when one comes to Mr. Edirisinghe's evidence which is reasonable and is supported by documentary evidence and the evidence of Mr. Abeywardene, the Court cannot but hold that so far as the alleged meeting of 12.8.60 was concerned that that meeting of 12.8.60 did not take place and that no resolution was passed as indicated in the minutes P5.

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Addresses to  
Court  
—Continued

Sgd A. E. R. COREA  
*Additional District Judge*  
3-12-65

10 Further hearing on 22.3.66 and 23.3.66.

Sgd A. E. R. COREA  
*Additional District Judge*  
3-12-65

22nd March, 1966.

Same appearances as on last date.

Addresses.

Mr. Nadesan continues his address.

Apart from the issue regarding the misjoinder in respect of which he submits that he had already made his submissions, the other three matters with  
20 which he has already dealt in detail are as follows:-

- (a) Was a General Meeting of the Shareholders of the Company held on 12.8.1960?
- (b) Was a resolution sanctioning the various loans referred to in the mortgage bond passed at this General meeting? and
- (c) Was the sum of Rs. 125,000/- borrowed on the mortgage bond obtained for the purpose of the business of the Company?

One matter that has to be borne in mind in considering the evidence, in respect of these three questions, is that the parties to the mortgage bond or their agents were Directors of the Company and were fully aware of all  
30 the facts relating to the alleged meeting or relating to the alleged resolution or relating to the purpose for which this sum of money was being borrowed.

This is not the case where an innocent third party ignorant of the facts either personally or through an agent brings an action on a mortgage bond. The bond itself, which is marked P1, in the recital clause specifically states that the mortgagor, at a meeting of its members held on 12.8.1960, duly resolved to borrow and receive a sum of Rs. 57,000/- from Dr. Soysa, Rs. 21,000/- from H. R. Fernando & Co. Ltd., and Rs. 47,000/- from the Ceylon Finance and Securities Limited. It does not refer to any resolution of the Directors. Apparently in this case, there was no resolution of the Directors to this effect  
40 and the only basis on which this sum of moneys had been borrowed is on the basis of this alleged resolution passed at the General Meeting of 12.8.1960:

In support of this resolution the Plaintiffs have produced the document P5 which purports to be the Minutes of an Extraordinary General Meeting of shareholders held on 12.8.1960. So far as the Defendant is concerned the position that is taken up is that in point of fact there was no General Meeting of the shareholders as stated in the minutes P6 and that this was a document which has been signed by the various Directors of the Company as at that date and also by Mr. E. A. S. Appuhamy merely for the purpose of enabling this mortgage bond to be executed by the Company, but in fact there was no such meeting. If one confines oneself to purely the documents in this case one finds that according to the Plaintiff in this case, in point of fact on this day in 10 question (12-8-60) there was not one Extraordinary General Meeting, but there were two Extraordinary General Meetings. This is a situation, that there were two Extraordinary General Meetings, that developed subsequent to the cross-examination of Mr. Fernando, who was only one of the Plaintiffs, who gave evidence, and a situation that developed in the course of his re-examination. In the course of the cross-examination, or for the matter of it in the course of the evidence-in-chief the position that was taken up by the Plaintiff was that there was a meeting of the Directors on that day on 12.8.60 and subsequent to the Directors' meeting there was a General meeting of the shareholders on 12.8.1960. But, in re-examination another document has been produced 20 marked in this case as P11, showing that there was an Extraordinary General Meeting of the Company held at 5.30 p.m. on the day in question, namely 12.8.1960. If one looks at purely the documents which have been produced on behalf of the Plaintiff, and particularly the minutes of the alleged Extraordinary General Meeting held at 6 p.m. on 12.8.60, one finds straightaway a very important circumstance which shows that this meeting was not in point of fact held and that this document has readily been fabricated for the purpose of showing that there was a resolution to enable the mortgage bond to be signed. On 12.8.1960 Mr. E. A. S. Appuhamy and Mrs. U. Podihamine were not shareholders of this Company. Nevertheless this minute 30 of this meeting shows among the members present Mr. E. A. S. Appuhamy and Mrs. U. Podihamine as also members who were present on that day at that meeting. In respect of such a meeting which was to be held notice of such a meeting would have to be given under the Articles of Association of the Company to the various shareholders; 7 days notice in the case of an Ordinary Meeting and 21 days notice if any special business has to be discussed. It is inconceivable that any such notice could have been given either to E. A. S. Appuhamy or Mrs. U. Podihamine to whom shares were transferred only on 13.8.1960. The other important circumstance about this document P5 is that it refers to Messrs. A. Clive Abeywardena and Mr. M. Ranganathan, 40 Proctors, being present on invitation. So far as Mr. Clive Abeywardena is concerned, he has given categorical evidence in this case to which Counsel submits he has already referred, denying that he was present at any General Meeting on 12.8.1960. He says that he was present only at one meeting and that was on 13.8.1960 for the purpose of explaining the mortgage bond to Mr. E. A. S. Appuhamy. As against Mr. Clive Abeywardena's evidence and the evidence of Mr. Edirisinghe, the only persons who have been called upon to give evidence on behalf of the Plaintiff are Mr. H. R. Fernando and one Mr. Chapman, a son of one of the shareholders. Counsel submits that he has already given the reasons why the evidence of Mr. H. R. Fernando 50 cannot be accepted and neither can the evidence of Mr. Chapman.

To prove a meeting one of the easiest methods would be to mark the notice summoning the meeting and this notice summoning the Special General meeting would have been in the hands of all the shareholders who held shares on 12.8.60, inclusive of Mr. H. R. Fernando, Dr. Soysa and various shareholders; i.e., V. S. M. de Mel, etc. Not only has this notice convening the meeting not been produced, neither have any one of those independent shareholders, who had nothing to do with this mortgage bond, been called to show that in point of fact there was such a meeting held on 12.8.1960. As a matter of fact, if there was such a notice convening the meeting, even if H. R. Fernando  
10 was silent, the notice could have been put to Edirisinghe. Counsel submits that so far as the alleged meeting held on 12.8.60 was concerned, in view of all the circumstances in this case and also the specific evidence of Mr. Clive Abeywardena, Proctor, not to mention the evidence of Edirisinghe that it is an incorrect statement to say that he was present at any General Meeting on 12. 8. 1960 which evidence the court will accept, the Court will come to the conclusion that no meeting was held on 12.8.1960.

As regards the second question - Was a resolution sanctioning the various loans referred to in the mortgage bond passed at this General meeting - the mortgage bond is ultra vires of the Company. Counsel refers to Article  
20 15 under the Articles of Association of this Company, which appears at page 10 of the Articles of Association of the Company, which along with the Memorandum, has been marked as D48, which excludes specifically Regulation 69 of Table "A" and provides a new Regulation 69 under the heading "Powers and Duties of Directors"; and the substituted Article 69 reads as follows:-

"The Directors may from time to time at their discretion raise or borrow any sum or sums of money *for the purposes* of the Company..... provided that the Directors shall not, without the sanction of a General Meeting of the Company, borrow any sum of money which will make the amount borrowed by the Company and then outstanding exceed the amount of  
30 prescribed capital for the time being of the Company." It is presumably due to a kind of some difficulty of this nature that a resolution has been put in, that an extraordinary General Meeting has been held with the approval of the Company. The only authority that has been given by the Articles either to the General Meeting or to the Directors is to borrow money *for the purpose of the Company*. Then the question arises as to whether this sum of Rs. 125,000/- was borrowed for the purpose of the Company. That is a crucial question that has to be decided in this case, and in respect of a matter like that the Court will rip open all the camouflage and disguise that parties may indulge in for the purpose of hiding the true nature of a transaction  
40 and find out in substance what this transaction is.

The alleged minutes P5 of the meeting of 12.8.1960 says - "*Finance*" "For the purpose of the business of the Company, it was decided to raise financial accommodation to the extent of Rs. 125,000/-". Mr. H. R. Fernando himself, in the course of his evidence in re-examination stated that it was for the purpose of the business of the Company that this sum of Rs. 125,000/- was raised. If it was for any purpose it must be apparent to Mr. Fernando as well as to the other Directors that the Company cannot raise such a sum of money. What are the real facts in this case? The real facts in this case are



disclosed by Mr. H. R. Fernando himself on whose evidence a situation has developed and it is a development which is rather interesting to read. So far as the evidence - in - chief was concerned, he was quite content to produce the mortgage bond P1, the cheques given in consideration, P2, P3 and P4, the minutes of the alleged General Meeting, P5, and P6 to P9 certain returns made by the Company in which this sum of Rs. 125,000/- is shown as an amount borrowed on the bond. Mr. Fernando said nothing himself in the course of his evidence - in - chief with regard to the purpose for which this money was borrowed. Then in the course of his cross-examination at page 9 he gave some very important evidence in the course of which he stated that in the latter part of 1959 he and the fellow-Directors, including Dr. Soysa and the others, were thinking of getting more shareholders, but they were unable to get more shareholders. Then the question is asked at page 9—*Q.* Therefore, you were looking for some people who would buy the shares? and the answer is “Yes. We thought of selling the shares if we could get money.” *Q.* Dr. Soysa, Mr. Selvanathan and yourself negotiated? *A.* No. It was the Secretary. *Q.* Mr. Edirisinghe wanted to take the management? *A.* He said that he would buy all the shares. We agreed to sell.” He also said that the price was fixed at Rs. 84/75 per share. The evidence at page 10 is also important to show the nature of the transaction, and particularly the answers 20 given by Mr. H. R. Fernando at the bottom of page 10. Having said that Mr. Edirisinghe wanted to buy these shares he was questioned as follows:- “*Q.* Did he want accommodation for Rs. 125,000/-? *A.* Yes. *Q.* You agreed to give him that? *A.* Yes. *Q.* Mr. Selvanathan, Dr. Soysa and yourself agreed to give? *A.* Yes.” At the top of page 11 the following questions have been put: *Q.* The small shareholders also agreed? *A.* Yes. *Q.* Did you want any security for the accommodation of Rs. 125,000/-? *A.* Yes. When he was questioned as to whether he wanted the Ward place property owned by Mr. Appuhamy, the father of Mr. Edirisinghe, to be mortgaged he said “No”. Then he had stated that the person who acted on behalf of Dr. Soysa and Mr. Selvanathan was Mr. Ranganathan, Proctor and Adviser. Counsel refers to D2 which he says was produced at that stage of the cross-examination. D2 is a very important document to show the real nature of the transaction. D2 is a draft mortgage bond by which Mr. Appuhamy, the father of Edirisinghe, mortgages No. 120, Ward Place, Colombo, to the 3 mortgagees, who are the 3 mortgagees in this action, and the various amounts in respect of which it has to be mortgaged are left blank. It has on it a minute in the handwriting of Mr. Ranganathan and dated 25. 7. 1960 in the following terms “Draft for approval and return.” D2 is important. As at the date 25.7.1960 the position was that they were contemplating in respect of 40 the sum of money with which they were going to accommodate Mr. Edirisinghe for the purpose of enabling him to purchase the shares on a mortgage that was to be given by Appuhamy. That was the position on 25. 7. 1960. On 25. 7. 1960, less than one month within which this mortgage bond by the Company dated 13.8.1960 in similar terms has been executed for a sum of Rs. 125,000/- and these sums were paid into the Company to be drawn by the Company, this was the position, and on the next day it was paid out to the three persons. That was the modus operandi for the purchase of those shares. This is a case where Mr. Edirisinghe has utilised the Company’s money not for the purpose of the business of the Company, but for the purpose of purchasing 50 of these shares for himself, his father and mother. The 3 Plaintiffs or

their agents knew that they were paying this sum of money to the Company to enable Mr. Edirisinghe to draw out those moneys and pay them for the shares. In point of fact, if these 3 people knew that Mr. Edirisinghe could not utilise this sum of Rs. 125,000/- for the purpose of purchasing his own shares, if they knew that he could not do it or he should not do it, they would not have given the money at all, because on the next day they had to get this money. The accommodation in respect of Rs. 125,000/- would have been granted by these gentlemen in this way—they could have transferred the shares to Edirisinghe or his nominees and then obtained from those people promissory notes, or mortgages or cheques, or any other form of security in respect of a total sum of Rs. 125,000/- on which they could have sued and got their money. They were keen in securing this money by a hypothecation of the Company's property. Therefore, they said though we know that Edirisinghe was going to utilise this money for the purpose of purchasing the shares yet we are going to be a party to this transaction, because we ourselves are to be benefited in three ways (a) we are going to get securities in respect of these moneys advanced; (b) we would not get securities of the Company's property and (c) this very money which we are giving today we are getting back tomorrow by being paid over for the purchase of our shares. Those gentlemen or their agents know fully well the whole transaction. So, if the court gets at the transaction—that is the real transaction—it will help the Court to decide this case. The transaction is an arrangement between these 3 people or their agents and Mr. Edirisinghe that they should advance these sums of money to the Company not for the purpose of the business of the Company but for the purpose of the Company in turn passing over these moneys to Edirisinghe, who would utilise those moneys for the purpose of purchasing the shares of those gentlemen who were supposed to be advancing the moneys. In this connection Counsel cites section 46(1) of the Companies Ordinance (Chapter 145), and submits that it is specific and clear on this point.

“Subject to the provisions of this section, it shall not be lawful for a company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase made or to be made by any person of any shares in the company: Provided.....”.

One thing cannot be denied. These parties got back into their hands the very next day the Rs. 125,000/- by the transfer of shares. They knew fully well how they were going to get this money back, if it was going to be utilised for the purposes of the Company. The evidence was that Edirisinghe was to be accommodated for the purpose of purchasing shares. Later on a device has been adopted for the purpose of getting the Company's sanction. On this point counsel refers to the further evidence that has been given in cross-examination at page 17—middle. Earlier he had said that he wanted accommodation and he wanted to purchase the shares and that they agreed to give accommodation. Evidence given at page 11 and 19 is referred to. On the question of agency the evidence of Mr. H. R. Fernando is important. The cheque that Mr. Fernando gave was a cheque drawn by H. R. Fernando & Co., Ltd., and the mortgage was also in favour of H. R. Fernando & Co. Ltd. The shareholders of H. R. Fernando & Company Ltd. are Mr. H. R. Fernando,



his brother, his sister and his wife. Mr. H. R. Fernando is one of the Directors of H. R. Fernando & Co. Ltd. The cheque P3 which was given in consideration of the mortgage bond is a cheque of H. R. Fernando & Co. Ltd. for Rs. 21,000/- and he says at page 19 that the cheque was drawn by H. R. Fernando & Co. Ltd. He says they gave him the cheque and he gave Edirisinghe the cheque. They had no money to give him. After the realization of that they had to give him the loan. He says that he had no money personally and he borrowed from the company—H. R. Fernando & Co. Ltd., and gave the loan. Counsel submits that this is a most important circumstance in this case. H. R. Fernando & Co. Ltd. itself had no money to meet the cheque P3. The Rs. 21,000/- cheque is not a cheque paid in respect of all the shares; it is only part accommodation. H. R. Fernando gives a cheque for Rs. 21,000/- without funds in the bank. 10

The situation was this:- H. R. Fernando has to sell Edirisinghe a certain number of shares for which he has to be paid either in cash or by cheque. But, in respect of a sum of Rs. 21,000/- which Edirisinghe had to pay him he has obtained from his company a cheque for Rs. 20,000/- H. R. Fernando & Co. That cheque for Rs. 21,000/- has to go into the bank account of the Company to which he gives the cheque for Rs. 21,000/-. On the 13th H. R. Fernando received from Edirisinghe and the others the consideration due on the entirety of his shares by cash and cheques. Edirisinghe has to pay to his company Rs. 21,000/-. These cheques and cash he passed on to that company on the Rs. 21,000/-. The Rs. 21,000/- cheque which is given to the Tobacco Company will be met by the balance. Once that Rs. 21,000/- cheque is met the cheque for Rs. 21,000/- which Edirisinghe has got from the Company will also be met by the Company. 20

For example, for the purpose of paying Mr. H. R. Fernando Rs. 50,000/- Edirisinghe has got in his hands only 29,000/-. Then the Tobacco Company gives him a cheque for Rs. 21,000/-. He hands over the cheque for Rs. 21,000/- and other cash and cheques for Rs. 29,000/- to H. R. Fernando on 13th. 30 H. R. Fernando out of the Rs. 20,000/- which was given to him, which of course is solid cash, gives to the Company from which he borrowed their Rs. 21,000/- on the 14th. The Company then has in its hands Rs. 21,000/- on the 14th. Edirisinghe has Rs. 21,000/- of the Tobacco Company's cheque in his hands. How will Edirisinghe get Rs. 21,000/- from the Tobacco Company? For him to get it, the Tobacco Company must realise their cheque which they have got from H. R. Fernando & Co. Ltd. It goes to the account of H. R. Fernando & Co. Ltd. That will be met because H. R. Fernando & Co. has already given that Rs. 21,000/- out of the Rs. 29,000/-. This is a triangular transaction. 40

The evidence supports the nature of this transaction. P3 dated 13.8.60 is the cheque in favour of Jupiter Tobacco Co. by H. R. Fernando & Co. Ltd. That cheque has been presented by the Defendant-Company on 16.8.60. On that day, the endorsement was "Effects not cleared. Please present again." On that day, the 2 cheques that we had given H. R. Fernando & Co. Ltd. had not gone through the bank. Refers to the evidence on the point of the realization of the cheques at pages 39 and 40. It has to be emphasised that H. R. Fernando & Co. Ltd. are themselves intimately parties to this very transaction to enable them to purchase these shares.

The position is made clear in re-examination at page 39, D9. and D10 are the cheques given by Edirisinghe; they were given on account of the purchase of shares. D9 was given on account of loan and D10 was given on the purchase of shares.

The other important evidence in the case is various documents D3 to D6 that have been produced in this case, in respect of payments of interest showing that all payment of interest in respect of this bond have been paid by Edirisinghe. (They are D3, D4, D5 and D6.) This goes to indicate that so far as the parties were concerned they had no doubt as to who the real borrower was in respect of this transaction. It is quite clear from the way in which the whole matter is coloured that the real borrower in this case was Mr. Edirisinghe, and that this was only a device adopted that Edirisinghe's consent was also obtained for the purpose of involving the Company in this transaction and the Company being made to give security for the raising of a sum of money for the purpose of enabling the purchase of shares directly in conflict with the provisions of section 46 (1) of the Companies Ordinance. Counsel submits that this is a transaction in which the Plaintiffs participated to defend the Company which the Company could not have done under the law of the land. Counsel refers to the evidence given by Edirisinghe in chief at pages 52 and 54, and particularly to the evidence at pages 60 and 61.

The third person who has given the Rs. 47,000/- is a Company known as the Ceylon Finance and Securities Co. Ltd. and the evidence of Edirisinghe at page 61 is that he had no transaction with that Company and that arrangement was made by Selvanathan. It was Mr. Selvanathan who handed the cheque for Rs. 47,000/-. Counsel also refers to the evidence of Edirisinghe at page 73.

There is no reason why H. R. Fernando who had no money should bring a cheque from his Company which itself had no money.

Mr. Samarakoon is heard in reply on behalf of the Plaintiffs.

He refers to the issues raised by the Defendant with regard to the question of misjoinder of parties—Issue 5, 6 and 7. He refers to the mortgage bond P1. It recites first and foremost that it is a loan to Jupiter Cigarette & Tobacco Company Limited and it says that the total sum agreed upon is Rs. 125,000/- on the security of the land and premises in the first schedule described with the buildings and machinery etc.

In the first place, it is a loan to the Defendant-Company of a sum of Rs. 125,000/- in 3 different sums and the security for the entire amount of Rs. 125,000/- is the land and premises together with the buildings, machinery and the fixtures thereon. There are 3 sums mentioned from the three respective lenders aggregating to Rs. 125,000/-, and the mortgage is all that property, land, buildings and machinery, etc. to the three persons for the entire amount of Rs. 125,000/-. Counsel submits that the mortgage is one mortgage. It is not a mortgage of parts or shares of a land, building, and machinery to cover each of the respective loans given by the 3 Plaintiffs. It is one mortgage for the entire amount of Rs. 125,000/- and that is indivisible.

In the first place there is a total sum of Rs. 125,000/- advanced in different amounts by 3 persons to the mortgagor. The mortgagor mortgages for the security of all those persons, whatever the respective amount may be, to secure the sum of Rs. 125,000/- to the 3 persons certain property described in the schedule; he also says that the mortgagees or any one of them may sue for the realisation of the security and they can adopt the above remedies simultaneously or exclusively for the recovery of the said amount of money. Counsel submits that the mortgage in this case is one and indivisible. This is not a question of a mortgagor securing in respect of each of the sums advanced by the mortgagees a proportionate portion from an undivided portion of the mortgaged land and premises and movables to the value of the respective amounts. On the contrary it is one mortgage and all 3 persons for the purpose of realizing their mortgage could sue for the realization of their monies. 10

Counsel submits that as the bond states it is a concurrent right in respect of one mortgage and indivisible mortgage, and it is not a question of their having to sue separately for the recovery of their portion of money. It is a concurrent right that all have for the realization of the mortgage in the respective amounts, in which event they have a right to sue for the enforcement of the mortgage. They can only do it by joining, and if they cannot join, by making the party not joined a Defendant in the case. On a reading of the document P1, it is quite clear that it is a concurrent right in respect of a mortgage—one mortgage—and it is indivisible, and for the recovery of the sum of Rs. 125,000/- made up of their respective amounts. In such a case it is within the power of the concurrent mortgagees to bring one action for the recovery of the moneys due to them and for the enforcement of the mortgage. In support of this proposition he cites 33 *N.L.R.* Page 319. In that case, although the recovery is on a proportionate basis of half and half the entirety of the land was mortgaged. There is an obligation in half part to each of the obligees. In respect of that obligation, there is one mortgage of one land. There is no condition in respect of each half part. Each of the obligees may sue for the amounts due to them for the realisation of the mortgage. In this case, the various sums are lent by 3 persons and there is one mortgage for all of them and they are permitted to sue simultaneously or successively. This is a concurrent bond; it is a concurrent liability and it is a concurrent right. In the 33 *N. L. R.* case, the two varied amounts are claimed by each of the obligees. Counsel refers to the prayer to the plaint in that case where the respective amounts were set out and judgment was asked for in the respective sums and judgment was prayed for that the premises secured be executable. In that case it was one mortgage for the entire sum of money, although that sum was contributed in half share 30 each. In this case, the 3 persons giving 3 different amounts, totalling to Rs. 125,000/-, the mortgage is one to all 3 persons for that aggregate sum of Rs. 125,000/-. The property mortgaged is one land with the buildings and machinery, etc. thereon. Counsel submits that unless the Plaintiffs are entitled to sue in one action, effect could not be given to the hypothecation. 40

The position in this case is that if upon a consideration of the case it can be said that it is a joint right in respect of one mortgage, which is indivisible, then they must jointly act. That difficulty cannot be got over by making one a defendant. This is a joint right and they are entitled to sue in one action

jointly for the recovery of the respective amounts. It was agreed between all these parties, including the Defendant, that it shall be a joint right. The Plaintiffs shall be entitled to sue either simultaneously or successively for the enforcement of a joint right. This is a concurrent right. They would be entitled to realise the securities and in the event of the securities not being sufficient that this is a joint right is emphasised by the fact that they shall share pro rata. Counsel cites 51 N.L.R. page 500, at 501 and at 504.

No. 10  
Addresses to  
Court  
—Continued

This bond P1 is a joint-contract; it is one and indivisible. With regard to concurrent rights and joinder of parties having concurrent rights, Counsel  
10 cites 45 N.L.R. page 156. He submits that each concurrent mortgagee has a right to come to Court in one action, on the mortgage bond P1 and to maintain this action. He refers to section 65 of the Mortgage Act. Concurrent mortgagees can bring one action; all can join as Plaintiffs in one action. If one or other for some reason or other refuses to join in the action, he could be made a party defendant in the action. Counsel submits that on the authorities cited and in view of section 65 of the Mortgage Act concurrent mortgagees on documents such as P1 are permitted to file one action, for the recovery of the respective amounts due to them and for the enforcement of the mortgage.

Counsel refers to Issues 1, 2 and 3.

20 This is a Company that was at one stage found to be doing good business, but at some stage it got into difficulties, and apparently it wanted some money. The evidence shows that it came about in this way. Mr. Edirisinghe, who now styles himself as the Managing Director of the Defendant-Company, by virtue of some loan transactions happened to become a shareholder of this business. That evidence is at page 52. He was not a man who was not concerned in the running of this business; the Company was in difficulty and they went to him for a loan and he gave a loan. Apparently before Edirisinghe became a Director and while he was a creditor of the Company and a shareholder, he felt that everything was not in good order in this Company. He did not  
30 like the way in which it was being run; he felt that the Directors were not doing what they should do. Like shareholders in other companies, he thought he was one of the few people who could run the Company; he thought to 'corner' all the shares. His position is that he and the members of his family should become major shareholders and take control, because it was not being run properly. The factory was not in production and he thought that he could run it. So he advised himself. He suggested to the others that they should sell all their shares to him and his nominees so that his group would then have control to run the Company in the way that they should run, (see evidence at page 63). He started business in 1955 and in 1959 he was able to  
40 give an interest-free loan of Rs. 50,000/- without security to this Company. The second loan of Rs. 50,000/- was given in 1960. At page 64 he says, he first needed working capital so that the factory could go into production. At page 65 when he was questioned as to his knowledge about the finances of the Company, he said that he did not attend Directors' meetings. He says that he had to rely on what other members told him. At page 66 he says that he thought the best way of running the Company was if he took control of the Company. He decided that he should be the sole person running this business and it was for that purpose that he decided to buy up all the shares. When

questioned as to whether he took any advice with regard to the state of the finances of the Company, whether he could run the Company, he said that he did not seek any advice and that he did rely on what other people told him. Without taking any kind of advice, he got advice from a man called Sivadas, a man who knew about the quality of tobacco, Edirisinghe decided to buy the shares and that he should take control of the Company. He decided that once he took control of the company, the factory could go into production and run the business as a good running concern. Edirisinghe was a shareholder and a creditor, and he decides that he should take sole control of the business—he did not seek any advice. He did not have any knowledge of the manufacture 10 of tobacco. He took advice on the leaf side from Sivadas. That was the position when Edirisinghe decided to take sole control. Here is a man taking sole control of the business without knowing what it is and how to run it. Having decided upon this, he asked for certain figures. He was provided with certain figures. The document that was provided to him was D1. He refers to D1, D1a to D1c. Whatever Edirisinghe may have thought of it at that time; whatever he may have decided himself in spite of his conviction at that time that he was the man who could run it, that he was the man who was able to make this business run at a profit, etc. by looking at D1 one would see that this Company was in debt; its liabilities amounted to Rs. 200,000/- as 20 at 31.5.1960 and the factory was still not in production. He was given certain figures ending as at 31.5.60. He says he looked into the question of the liabilities of the Company. When one looks at D1b it is apparent that at that time the liabilities amounted to Rs. 48,092/65. Having looked into these figures Edirisinghe decided that he was the man who should take over this business. What was his first proposal according to him? All he had to find was the working capital, because as far as his position to buy shares was concerned he did have the money to buy the shares. He had Rs. 200,000/- (see his evidence at page 68) He had Rs. 200,000/- which he could have given 30 to the Company. He was in a position to give 2 1/2 lakhs immediately. He has been given the figures up to 30.5.1960 and in July he decided to buy the shares. He decided in July 1960 that he was buying shares at Rs. 84/75. According to him his first proposal was that he should be given a loan and the agreement was to give him the loan personally. When this deed recites that there was a resolution by the Company Edirisinghe says it is false; the loan was not to the Company, but the agreement was that the loan was to be given to Edirisinghe; the agreement was that for the personal loan to Edirisinghe the Company's properties should be mortgaged. But they do not go further and say who was to repay. Even Edirisinghe does not say that he was to repay. The deed says that the Company must pay. Whatever the agreement 40 was with regard to the loan it does not say that Edirisinghe would pay this. The bond says that the company must pay it. It has been submitted that this bond is invalid and *ultra vires* of the Company, because no such resolution was passed and in fact there was a fraud. It has also been submitted that the resolution that was recited in P1 was in fact a fraudulent fabrication on 1.8.60 for the purpose of giving colour to the loan transaction from the Company. This is said so by Edirisinghe only. The court has certain facts before it. It is said that there was no transaction whatever with the Company; that it was all with Edirisinghe; there was no loan to the Company; it was a loan personally 50 to Edirisinghe. The question is how has the Defendant sought to prove that the deed is wrong and that Mr. Edirisinghe is correct. It is by the production of

the document D2, which is a draft of a mortgage bond apparently drawn by Mr. Ranganathan and sent by him for approval and return, to someone. The draft D2 is for a mortgage of a property in Ward Place owned by Edirisinghe's father, Samel Appuhamy. By D2 it is sought to show that this is a loan that was in fact given to Mr. Edirisinghe and not to the Company. The plaintiffs say that there is a resolution, but they have produced no notice calling the meeting. In fact, it is submitted by the Defendant that there was no such meeting, and it is not proved that there was such a meeting. It is apparently on the basis that the burden of proof is on the Plaintiffs to prove that there

10 was such a meeting and a resolution was passed. Counsel submits that it is for the Defendant to show that this is a fraud. This Defendant says it is a fraud and the documents were fabricated. The Defendant asks this Court to consider the evidence of Mr. Clive Abeywardena who has got into the witness box and said that he was present at one meeting. Edirisinghe asks this court to believe his evidence when he says that there was no such meeting of any kind; P5, P10 and P11 are all fabrications; they were signed on the 13th. In the light of this evidence, is it not reasonable to state that Edirisinghe himself was a party to the fraud? A fraudulent man is making this allegation that this is all a fraud to which he was a party so that he could get a loan himself and

20 therefore set it aside. He is one of the persons who was guilty of the fraud and who helped in the fabrication of the documents P5, P10 and P11. The question is will the Court accept his evidence. He has no alternative, but to say that. The only way the company can escape and he can save his controlling interests is by getting this deed declared null and void. How can he do it; by what process can he do it? The only way he can do it is to say that this is *ultra vires* of the Company, because there was no resolution as stated in the recital in the deed. Then he realises that if he said that he had to bring himself into the fraud; he had to bring himself into the fabrication of documents, because he had signed those documents. He had,

30 therefore, decided to say—may be that I was a party to the fraud; may be that I was one who was a party to the fabrication of the documents, but still it is an invalid deed (P1). Is the Court in the circumstances of this case going to accept the evidence of such a witness? His position is—Yes I am also a rogue, but accept my evidence in preference to the other rogues. Edirisinghe points an accusing finger at H. R. Fernando; he points an accusing finger at the other two, and says they are rogues, they are a party to the fraud and a party to the fabrication of documents. I am also a party to that. Do not accept their evidence; accept my evidence although I am of the same calibre. That is the sum total of Edirisinghe's evidence when he asks that this deed P1

40 be set aside on the ground that it was a fraud and *ultra vires* of the Company.

P1 is a notarially executed document. The recitals contain a statement firstly that there was a meeting on 12.8.1960. The court may bear in mind that it is signed by Edirisinghe, and his father, who has not chosen to come to Court and support his son or as a Director come to Court and corroborate his case. He has been put forward by Edirisinghe to speak to certain things interpreted by Mr. Clive Abeywardena. The attack on this notarially executed document is three-fold:- (1) the oral evidence of Edirisinghe, the defrauder and fabricator, (2) the evidence of his Proctor, Mr. Clive Abeywardena and (3) certain documents which have been marked to show that this meeting was a

50 fabrication or an imagination. P1 is a notarially executed document, and the

Court is well aware of the sanctity attached to documents of this nature. Refers to sections 91 and 92 of the Evidence Ordinance. The contents of a document cannot be contradicted unless in certain circumstances. One of the matters that is sought to be contradicted in this case is that a meeting was held on 12.8.1960. It is so stated in the deed P1 that a meeting was held on 12.8.1960. This is sought to be contradicted with the evidence of Edirisinghe, coupled with the evidence of Mr. Clive Abeywardena. What is the ground on which the Defendant seeks to contradict this notarially executed document—that is, an allegation of fraud—fabrication of documents? Edirisinghe says, true it is said that there was a meeting on 12.8.60; true it says there is in 10  
existence such a minute signed by Edirisinghe. Edirisinghe says it is a big fraud; do not believe me. It is a fabrication of documents and on the ground of fraud P1 must be contradicted.

Counsel submits that when fraud of that nature is alleged to contradict or to vary the terms of the document it would be at least pleaded; one has got to plead fraud and raise it as an issue. Here is an attack on a notarially executed document. It is sought to be attacked on the ground of fraud. He refers to paragraph 3 of P1. It is one of the grounds under section 91 that a notarially document can be attacked. In this case, fraud has not been pleaded or raised as an issue. There is no issue on the ground of fraud; nor in the pleadings 20  
has such a fraud been pleaded. Counsel submits that for the purpose of contradicting this notarially executed document fraud should have been pleaded and it should have been raised in issue and should have been proved. Otherwise a notarial document goes. He cites 3 *Leader Law Reports* page 56 and 12 *Law Recorder* page 73 at 74. He submits that fraud must be alleged; one must be particular in pleading fraud and one must raise it by way of an issue and one must prove it. Otherwise under section 91 and 92 of the Evidence Ordinance evidence is not admissible for the purpose of contradicting this notarial document. (Mr. Nadeasn states that although it has not been said 30  
so in so many words, fraud has been pleaded.)

Re the allegation of fraud in the evidence reference has been made to P5, P10 and P11. All these documents P5, P10 and P11 are fabricated documents, because P5, P10 and P11 were fabricated for the purposes of the recitals in deed P1; that is the evidence of Edirisinghe. That was not what was pleaded. Edirisinghe said that there was no such meeting; this was all a fabrication of ours, including myself. The allegation is that there was no such resolution.

With regard to resolutions Counsel refers to the answer and submits that the only plea taken by the Defendant was that there was no resolution of the Company as alleged in the deed P1. Edirisinghe, the Managing Director of the 40  
Company, was obviously aware that there was in existence the minutes, which he signed—the minutes on the faith of which the Plaintiffs have lent the money; the minutes on the faith of his it is put in the recitals. That minute is P5. The only pleading is that there was no such resolution. According to the minute P5, there was such a meeting and there was such a resolution. Refers to section 118 of the Companies Ordinance (Chapter 145). In section 118(3) it is said that until the contrary is proved, the meeting shall be deemed to have been duly held. Here is a minute: here is a minute on which the Plaintiffs



have acted and on which they have given the loan . Here is a minute on which the Plaintiffs rely being authority to give that loan and for the purpose of asking that it is *intra vires* of the Company it is not the burden of the Plaintiffs to prove that the minutes are correct; that in fact there was this meeting; that it was properly convened and that this resolution was properly passed. By virtue of section 118 it is said that unless the contrary is proved, the meeting shall be deemed to have been duly held. It is not for the Plaintiffs to prove the contrary, because they rely on it. The contrary must be proved by the Defendant. Court has to consider this case firstly on the basis that there is sanctity for  
10 this under section 118 of the Companies Ordinance, which shows that at the time the loan was given there was a meeting and a proper resolution was passed. It is those who allege the contrary who should prove it. Counsel submits that there is no such proof in this case.

The Defendant has however, sought to prove the contrary as required by section 118 of the Companies Ordinance. It is important to examine how the Defendant has sought or admitted to prove the contrary in this case.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
23.3.1966.

20 Further hearing on 12th May, 1966.

Sgd. A. E. R. COREA  
*Additional District Judge.*  
23.3.1966.

**Continuation of address by Mr. Neville Samarakoon.**

Issues 1, 2, 3 and 8B.

Issue 8(B) Reads as follows:—

Was there a resolution or decision of the Defendant-Company?

- (i) to borrow the alleged sums; or
- (ii) for the alleged execution of the said bond; or
- 30 (iii) authorizing the alleged borrowing and/or the alleged execution of the bond?

The bond itself recites the fact of borrowing on the authority to borrow. What is attacked is the fact of a resolution and authority to borrow. It was submitted that by virtue of the provisions of section 118 of the Companies Ordinance, the minutes of the proceedings of the meeting are conclusive until the contrary is proved. The resolution itself is recited in the bond and it is the burden of the Defendant to prove the contrary. In the course of the evidence, it is submitted, the Defendant attempted to prove fraud, and one method of proof was by Edirisinghe the Managing Director stating on behalf  
40 of the Defendant that he himself was a party to the fraud. It is submitted that



in the way the issues are framed, no fraud is raised either directly or indirectly, specially because no fraud is alleged in the answer and no particulars of the fraud were even given either in the answer or in the issues. It is, therefore, submitted that the decision on fraud does not now arise although an attempt was made in evidence to prove it. In any event, the fact that there was no meeting in which the resolution was passed was sought to be proved by three means—

(I) by evidence of a period anterior to the passing of the resolution viz., the alleged attempt to obtain a loan on the security of the private property of one of the directors at Ward Place i.e. property belonging to Samel Appuhamy the father of Edirisinghe. For this purpose document D2 was produced. It is submitted that document D2 itself proves that a private loan or a purely private transaction with the director was earlier attempted and refused. It is submitted that this fact proves that the lenders were not prepared to give a private loan to Mr. Edirisinghe the individual taking as security the personal property of his father. It is submitted that this fact is borne out by the evidence of Edirisinghe himself at pages 53 and 54. At page 54 he says that the private loan he wanted was Rs. 175,000/- on a mortgage of the Ward Place property. That matter was not considered and the lenders were prepared to give only a sum of Rs. 150,000/-. Although Edirisinghe stated that it was not a loan to the Company but a personal loan to him, yet he admitted that eventually the lenders were prepared to give a loan to the Company on the security of the Company's property. The evidence at pages 53 and 54, it is submitted proves that when this private loan was refused, the next scheme came into effect, which was the scheme that was adopted by which a loan was given to the Company on the security of the Company's property.

Edirisinghe's answer on this point was—

“they proposed another scheme after that. They suggested that they could give me on Lady Catherine estate”

*vide* also evidence at page 71. The evidence given by Edirisinghe, it is submitted proves clearly that what he wanted was capital to commence production in the factory—*vide* pages 64 and 68. That the cheques given by the lenders P2, P3 and P4 were drawn in favour of the Company and not of Edirisinghe, that these cheques were marked “account payee” make it clear that it was for the Company and no one else, so that it could go into no one else's bank account and that Edirisinghe credited the Company's bank account and fraudulently withdrew monies from it thereafter and credited that part to his own private account. It is submitted that the very fact that the transaction on D2 fell through and the fact that Edirisinghe had to resort to this fraudulent conduct subsequently proves clearly that the lenders were not prepared and did in fact give this loan not to Edirisinghe but to the Company. The bond itself recites the fact that it is a loan to the Company. It is submitted that D2 proves the case for the Plaintiff that it was a loan to the Company and not to Edirisinghe personally.

(II) The next line of attack on the fact that there was no resolution passed is the evidence of Mr. Clive Abeywardena, Edirisinghe's Proctor and now Proctor for the Defendant. It is submitted that Mr. Abeywardena is either

confused in his mind or is making a deliberately incorrect statement. The document P5 states that two lawyers were present, viz., Mr. Ranganathan and Mr. Abeywardena. Mr. Abeywardena says in examination-in-chief that he was not present on the 12th of August, but he was present only on the date the deeds were signed. It is submitted that this fact must be looked into on the basis also that when the evidence was being led, only P5 was objected to. Mr. Abeywardena stated in examination in chief that he was taken to a premises at Lauries Road "to read and explain the contents of the deed to the father. The father did not know English". He said that he had never been

10 to that bungalow before and certainly not on 12th August 1960. It is submitted that certainly there was some very important reason for taking a lawyer on that occasion and it cannot be for the fact that it was merely to read and explain the contents. That could easily have done by Edirisinghe the son who had read the deed, who knew the contents of it and from the evidence it appears he had apprised the father of the contents of it. Mr. Abeywardena when cross-examined stated that he was asked to attend the execution of the document. When cross-examined he stated—"there were so many transactions. I was not worried at all"—*vide* page 45. He makes out that when he set out with Edirisinghe for the purpose of attending the execution of the deed he

20 was not told and he did not know the purpose of his trip. He did not even ask where he was being taken. Then he states he explained the deed to Edirisinghe's father and he admitted he read P1 from beginning to end—*vide* page 46. He also explained that the Company was mortgaging its movable and immovable property to three persons for Rs. 125,000/-. Of course he says he did not interpret word by word because "it is natural for the son to have explained it to the father". It is submitted that it is significant that the father asked him no questions as to why he was being made to sign a document upon a loan transaction with the Company with which he had nothing to do and of which he was not even a shareholder—if his son's statement is to be believed.

30 According to Mr. Abeywardena, the son was present right throughout and appeared to have knowledge and to have read the contents of the document P1. In cross-examination it was suggested to him that it was for the purpose of explaining the legal aspect that he was taken on that occasion but he was compelled to deny this. He was cross-examined on the importance of the fact that he should have explained the provisions with regard to the resolution in deed P1 and that in a deed like P1 this was one of the most important aspects, the implications of which he should have explained to his client. But he attempted to get out of the difficulty by trying to make out that he knew nothing of company law. It is submitted that if he knew nothing of

40 company law, he would not in the first place have been taken there by Edirisinghe, and in the second place, it was his duty as a lawyer to have told his client that he was not in a position to act as their lawyer on that occasion even at the time when he realised that this was something beyond his comprehension. It is however submitted that Mr. Abeywardena is not speaking the truth on this matter. When cross-examined, he stated this—

"Q. When you read that the Company had passed a resolution to borrow money, did it not strike you as a lawyer that it should be something you should explain to your Client?

A. I was not worried. I did not study company law as well.

**Q.** Did you know that fact before you set out that day?

**A.** I knew”.

It is submitted that what was being sought to be elicited from him was not as to whether he was worried or not but whether he as a lawyer performed his duty by his client. He sought to escape his difficulty by pleading ignorance of company law. But the very next question he had to admit that before he set out that day he knew “that fact” viz. that the question of a resolution of a company in a transaction of this nature was a fact that he should explain to his clients.

In examination-in-chief he made out that he was not present at a meeting 10 of the 12th of August 1960 but he had to admit that he went to Mr. H. R. Fernando’s place on that date. At page 48 he was questioned—

“(Shown P11)

**Q.** This states that it was an extraordinary general meeting of the shareholders of the Jupiter Cigarette and Tobacco Company Limited held on 12.8.60 at No. 64 Lauries Road, Colombo?

**A.** Yes.

**Q.** It shows that Messrs. A. C. Abeywardena and M. Ranganathan were present?

**A.** I went to Mr. H. R. Fernando’s place on that day.”

20

It is submitted that this proves clearly that whatever his purpose was or whether he admits the fact of a meeting or not, he was present at No. 64, Lauries Road, on the 12th of August 1960.

It is, therefore, submitted that the evidence of Mr. Abeywardena carries the case of the Defendant no further and does not contradict the written document P5. In the first place Mr. Abeywardena admits that he was present on the 12th of August. If so, it could not be for the purpose of reading the deed P1: Possibly what was read was a draft on the 12th of August 1960. In the next place Mr. Abeywardena’s oral evidence that it was on the next day for the purpose of advising his client in regard to deed P1 cannot be correct 30 because his own evidence shows, if he is to be believed, that he went there merely to read English and translate it into Sinhalese, when that was something which Samel Appuhamy’s son Edirisinghe was quite competent to do. It is submitted that Mr. Abeywardena is confused and that he was in fact present as P5 states on the 12th of August 1960.

III. The next piece of oral evidence on which the resolution is attacked is the evidence of Edirisinghe. It is submitted that his evidence must be looked into carefully in view of the fact that he is now an interested party, trying to get out of a difficulty into which he had got himself and also dragged in his parents and also because he is a self-confessed perpetrator of fraud in this 40 matter. Mr. Edirisinghe first tried to make out that document D2 proves that

it was a loan to himself personally. As submitted earlier, this proves firstly that an original suggestion of a loan to Samel Appuhamy was refused. Mr. Edirisinghe then makes out that the loan given on P1 was in fact a loan to him personally. He states that he was in need of money but in cross examination he had to admit that the loan was needed as "working capital" for the Company. At page 68 he says this—

No. 10  
Addresses to  
Court  
—Continued

"Q. In spite of the fact that the statement showed you that the Company was indebted to the tune of over two lakhs you decided to take over the Company?"

10 A. Yes.

Q. The document shows that the Company had no working capital?

A. Yes.

Q. There was the immediate need to find working capital to run the factory?

A. Yes.

Q. That was in the region of 2 lakhs?

A. Yes."

There was no doubt, therefore, that what he wanted was capital for the Company. At no time does he say that he did not know what "capital" meant. There is no doubt that he was personally not in need of any funds at 20 that time and if money was required without a loan he could have provided the money himself. He was questioned further at page 30—

"Q. Prior to making the decision to take over the Company, did you look around to see from where you could get 2 lakhs?"

A. I had two lakhs.

Q. You had two lakhs which you could have put into the Company?

A. Yes.

Q. Would you have given more than 2 lakhs?

A. Yes.

Q. What was the limit?

30 A. 2 1/2 lakhs.

Q. You were in a position to put in 2 1/2 lakhs as working capital to the Company?

A. Yes.

*Q.* The Problem was how you could immediately transfer the other shares?

*A.* Yes.”

It is submitted that this proves quite clearly that he was not in need of any personal loans and that he was well aware of the difference between personal moneys and capital for the Company. He was not going to risk his personal moneys on this. But the Company had to borrow moneys from outside at its own risk. It is therefore submitted that when Edirisinghe states that the transaction on P1 was a personal loan to him it is a false statement. He also stated that P5, P10 and P11 were fraudulent documents prepared and signed on the 13th August and that he was a party to this fraud. It is submitted that he had to say so and this was necessary for the purpose of the Company escaping the obligation to repay the sum of Rs. 125,000/-. It is significant, it is submitted, that in the course of the evidence only P5 was objected to by counsel for the Defendants. P10 and P11 were not disputed. In the result P5, it is submitted, must be accepted as correct as P10 and P11 only follow P5 and record transactions subsequent to P5 and prove the truth of P5. If P5 was not correct and was a fraudulent document it was his duty as director not to sign the documents P1 and P5 and also it was his duty as a son to warn his father against taking part in a fraudulent transaction, neither of which he did. His evidence was that he never attended directors' meetings of this Company. At page 65 he says this—

“*Q* You attended a number of meetings of the directors?

*A.* Yes.”

He then realised that he had made a damaging admission and shortly thereafter appears the questioning—

*Q.* “Did you raise any question at the directors' meeting with regard to the question whether the company could not go into production?”

*A.* I never attended the directors' meetings.”

It is submitted that he retracted his evidence on this point because he suddenly realised that his defence was that there was no meeting held on 12th August 1960. When questioned about the signing of the deed itself, he was asked this question at page 77—

“*Q.* Is it your position that you did not realise on 13.8.60 before you signed P1 that the mortgagor and borrower was the Defendant-Company?”

*A.* It says so.

I realised it when I read the document.

*Q.* Did you say I cannot sign this because this is a loan to me and not to the Company?

*A.* No.

*Q.* Did you ask Mr. Abeywardena “What is the meaning of this the loan is to me personally”?

*A.* We expected a mortgage. We did not know the transactions of the Company and dates and so on.

*Q.* If you borrowed personally, your name should appear as the person borrowing?

*A.* Yes. I knew the implications only on the 13th August.”

and further he states—

10 *Q.* On 13.8.60 you realised that the borrower and the mortgagor was the Company and not yourself personally?

*A.* Yes.

*Q.* If it was correct that you were the borrower personally, why did you not tell the lawyers I cannot sign this document. This is not a loan to the Company. This is a loan to me personally?

*A.* I was interested in the loan, not about the person lending. I was the borrower. I did not tell the lawyers to put my name down as the borrower.”

further on when questioned again—

*Q.* You realised that the property of the Company would be sold if the Company failed into default?

20 *A.* Yes.”

It is submitted that the answers indicate quite clearly that he was quite aware of the legal position, that he was giving answers which he knew were deliberately false and that he was quite aware that it was the Company's liability and the Company's transaction that he was signing. If he was a truthful man it is submitted, he would not have signed that document if according to him there was no such resolution. At one stage he tried to make out that P1 was signed because Mr. Renganathan put it upto him for signature and that all this was done on the 13th. It is submitted that this cross-examination on this point is revealing of the man and how untruthful he is. He said—

30 “Mr. Renganathan put up P1 for signature.

*Q.* Did you not tell him that this was not true, that there was no meeting on 12.8.60?

*A.* It did not strike me to do so. I did not realise the implication of the alteration of the date. It refers to a meeting of 12.8.60. I did not bother about telling Mr. Renganathan that there was no meeting on 12.8.60. I did not know what was going to happen.

**Q.** When you read you realised that it was an incorrect statement?

**A.** The date did not strike me. I knew there was no meeting.

**Q.** Why did you not tell Mr. Renganathan I cannot sign this because it is not correct, there was no meeting on 12-8-60?

**A.** They wanted me to do this. All the directors were there.

I did not expect such a thing to happen. I did not until I went there know what was expected to be done.

**Q.** Although it is dated 12-8-60 you signed it?

**A.** The foot of the page refers to 13-8-60."

It is submitted that if in fact there was no such meeting on 12th August 1960 he would certainly not have signed a fraudulent document which said so. He was trying to get out of the difficulty by giving various reasons one of which was that he did not bother about it. When he got into further difficulties in order to avoid cross-examination he tried to take refuge in the date 13-8-60 which ultimately turned out to be the date of the attestation. He then next relied on receipts D34 to D49 which were in his favour and not in favour of the Jupiter Company. He tried to make out that these receipts proved that it was a personal loan to him and not to the Company. He was then confronted with P12 to P21 which showed that the moneys which were acknowledged by these receipts had in fact been sent to him on behalf of the 20 Company. He was then asked this question—

“**Q.** On these documents you have sent money on account of interest on behalf of the Company?

**A.** Yes.”

Document P16 was a receipt for Rs. 47,000/- in favour of Ceylon Finance & Securities Ltd. He was asked why such a receipt was given. It is submitted that his answers prove clearly that he was not speaking the truth when he said this was a loan to him personally and not to the Company and that documents were created and doctored for the purpose of showing that it was a loan to the Company. His cross-examination on P16 is as follows- *vide* page 79.

30

“(Shown P16)

**Q.** This is a receipt for Rs. 47,000/-?

**A.** I have signed it on behalf of the Defendant-Company as a director. It is a receipt in favour of Ceylon Finance and Securities Ltd.

**Q.** That is what you indicated when you signed it?

**A.** I was asked to sign it.

Q. You signed it because it was correct?

A. I signed it when this was put up for signature in order to get the cheque.

Q. You signed it because it was correct?

A. I do not know whether it was correct or not but it had my signature.

Q. Would you have signed a receipt for Rs. 47,000/- unless it was a correct receipt?

A. It bears my signature.

Q. (Question repeated)

10 A. The cheque given by Selvanathan indicates the number. The money was given by Selvanathan Rs. 47,000/- and I had to give the receipt. The cheque was given by Selvanathan. The receipt was not in favour of Mr. Selvanathan."

It is submitted that this proves quite clearly that the witness is an untruthful witness and would go to any length of denying even written documents and even state that they were wrongly signed for the purpose of supporting an incorrect position. He was then next questioned with regard to the statutory returns he sent to the Registrar of Companies. P6 to P<sup>9</sup> shows that in successive years he has indicated this and reported this fact to the Registrar of Companies as a loan to the Company as a debt by the Company. He 20 was then driven to admit that this was a loan transaction of the Company which was quite contrary to his earlier position that it was a personal loan to him. The questions and answers on this point are at page 82 as follows:-

"Q. There is a particular form and on that form you must enter certain particulars and answers to certain questions truthfully?

A. Yes.

Q. Did you answer them truthfully?

A. Yes.

Q. All the forms you sent had those instructions?

A. Yes.

30 (Shown P6) This is one of the forms I sent to the Registrar of Companies.

Q. Look at the last column under paragraph 22. You read it before you signed it?

A. Yes.



Q. You put down Rs. 125,000/- against that?

A. Yes.

Q. That is the amount due on bond P1?

A. Yes.

Q. *That is correct?*

A. *Yes.*

Q. You showed those particulars every year thereafter?

A. Yes.”

It is submitted that this proves clearly that the witness was speaking an untruth when he earlier stated that it was not a loan to the Company but 10 to himself personally, that it was not a debt of the Company and that there was no such resolution. In fact when his personal position and his fraudulent conduct in relation to the funds of the Company were pointed out to him, he first took up the position that he took the moneys of the company to pay himself loans advanced by him to the Company—*vide* page 80 and later he was driven to contradict his earlier position when he was compelled to change his position and state—

“I borrowed the amount as Chairman of the Jupiter Cigarette Company.”

It is submitted that if it was a personal loan this capacity as Chairman 20 had nothing to do with it.

Documents D73 to D75 proved quite clearly that Edirisinghe has been guilty of fraudulent conduct as a director and has misappropriated the funds of the Company for his own personal use. It was therefore absolutely necessary for him to maintain that the loan on P1 was a personal loan to him and not to the Company. It is submitted that the evidence of the Plaintiff and the resolution are further corroborated by document D53 which shows that on the 12th of August 1960 a sum of Rs. 100,000/- was withdrawn by Edirisinghe from his personal account to pay the various shareholders who 30 in fact met on the 12th of August 1960 and it is submitted that this corroborates the evidence of not only of H. R. Fernando but also of witness Chapman and also proves the truth of the resolutions P5, P10 and P11. It is submitted that the documents therefore do not contradict the position of the Plaintiff. Moneys were in fact paid and transfers completed on the 12th of August 1960 although some of them are dated 13th August 1960 which could very well have been put subsequently. It is therefore submitted that the evidence of Edirisinghe far from supporting the case of the Defendant proves clearly that there were these meetings and the resolutions and that the Defendant and Edirisinghe are now driven to maintain a false position for the purpose of firstly avoiding repayment of the loan, secondly, to give colour to Ediri- 40 singhe’s fraudulent misappropriation of the Company funds and for the purpose of bolstering up a defence.

In spite of the fact that Edirisinghe maintained in examination-in-chief that his parents were not elected directors at any company meeting yet he was compelled in cross-examination to admit the genuineness of P10. His Cross-examination at page 75 is as follows:-

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Addresses to  
Court  
—Continued

“(Passage in P10 commencing ‘In terms of article 6 of the Articles of Association’ and ending ‘approved as shareholders’ is put to the witness)

I read it.

*Q.* That is how your father and mother became shareholders of the Company?

10 *A.* Yes.”

For the reasons given above it is submitted that the court will not hold that the Defendants had discharged the burden cast upon them by section 118 sub-section 3 of the Companies Ordinance.

It is also submitted that the lenders in this case (two of them, viz., the 2nd and 3rd Defendants being complete strangers to this company) are not bound to consider whether or not to inquire whether such resolutions had in fact been passed and to inquire into the irregularity of the internal proceedings. They were entitled to assume that everything had been done regularly for the purpose of obtaining the loan. See the case of *Royal British Bank Vs. Turquand* (1856 E & B page 327). The article 15 and clause 34 of the Memorandum of the Company permit the borrowing.

Issue 8A - Was the alleged borrowing and/or the alleged execution of the bond for the purpose of the Defendant Company?

As stated earlier, it is submitted, that it was borrowed as working capital of the Company. P2, P3 and P4 show that cheques were marked ‘account payee’ and that they were credited to the account of the Company. It is submitted that it is not the function of the obligation of the lender to see that thereafter it was not mis-appropriated by any of the directors. The fact that Edirisinghe as Managing Director caused those funds to be withdrawn from the Company’s account and transferred to his own private account is irrelevant for the purpose of this case. It only proves that witness Edirisinghe was a man who would not stop at using company funds to gain his own purposes. It is submitted that he certainly proved most resourceful in this matter.

In any event it is submitted if the court holds that this was a loan to the Company properly lent and properly borrowed issue 8A does not arise. It is submitted in conclusion that the court will not accept the evidence of Edirisinghe who has stated in the witness box that he assisted in creating documents for the purpose of perpetrating a fraud on the Company. He is now seeking to save the company by untruthful evidence which also serves to cover up his own misdemeanour as director.

Sgd. N. D. M. SAMARAKOON  
(Counsel of the Plaintiff)

10th June 1966.

**JUDGMENT OF THE DISTRICT COURT**

12th August, 1966.

**JUDGMENT**

The Plaintiffs seek to recover a sum of money said to be due on a mortgage bond which has been produced, marked P1. The Defendant-Company denies having borrowed the money, and states further that, in any event, the alleged borrowing was not for the purposes of the Defendant-Company and that there was no resolution authorising the Company to borrow the money. The parties proceeded to trial on the following, among other, issues:- 10

- (1) Did the Defendant, by Bond No. 432 dated 13.8.60, bind itself to pay the Plaintiffs the respective sums therein mentioned, aggregating to Rs. 125,000/-, with interest at 10% per annum?
- (2) Did the Defendant, for further securing the payment of the said sums referred to in issue 1, mortgage to the Plaintiffs, by way of primary mortgages, the properties referred to in the said bond and described in schedules 1 and 2 to the plaint?
- (3) Did the Defendant fail to pay the said sum referred to in issue 1 with interest from 13.6.62?
- (4) If issues 1, 2 and 3 are answered in the affirmative, are the Plaintiffs 20 entitled to:-
  - (a) judgment in a sum of Rs. 125,000/- with interest at 10% per annum from 13.6.62?
  - (b) enforce the mortgage upon the said bond No. 432 in terms of the prayer to the plaint?
- (8) (b) Was there a resolution or decision of the Defendant-Company—
  - (i) to borrow the alleged sums; or
  - (ii) for the alleged execution of the said bond; or
  - (iii) authorising the alleged borrowing and/or the alleged execution of the bond?
- (9) If issue 8(a) and/or (b) be answered in the negative, was the alleged 30 borrowing or execution of the bond *ultra vires* of the Defendant-Company?
- (10) If issue 9 is answered in the affirmative, can the Plaintiffs have and maintain this action?

Edirisinghe, who was called as a witness for the Defendant-Company, states in evidence that the sum of money referred to in P1 was borrowed by him, and not by the Defendant-Company. According to P1, however, the

money was lent to the Defendant-Company, and not to Edirisinghe. P1 proves that the Defendant-Company bound itself to pay the Plaintiffs a sum of Rs. 125,000/-. It proves further that the Defendant-Company mortgaged the properties referred to therein. It is not denied that no part of this sum of Rs. 125,000/- had been paid.

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Court—  
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—Continued

According to D48, the Directors may borrow money for the purpose of the Company, provided that the Directors shall not, without the sanction of a General Meeting of the Company, so borrow any sum of money which will make the amount borrowed by the Company and then outstanding exceed the  
10 amount of the subscribed capital for the time being of the Company. This regulation expressly prohibits the Directors from borrowing money, unless it has been sanctioned at a General Meeting of the Company. P1 states that the mortgagor at a meeting of the members held on the Twelfth day of August, 1960, has duly resolved to borrow and receive the sum of money referred to therein. Section 118(3) of the Companies Ordinance (Chapter 145) provides that where minutes of the proceedings at a meeting have been made, then until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had. A copy of the minutes of the meeting of the 12th of August, 1960, has  
20 been produced, marked P5. The original has not been produced. P5 states that a resolution was unanimously passed that the Company shall borrow and receive the sums of money referred to therein, and aggregating to Rs. 125,000/-. Although P5 affords proof in accordance with section 118(3) of the Companies Ordinance, I am satisfied that the evidence proves the contrary. P5 states that Messrs. Clive Abeywardena and M. Ranganathan, Proctors, were present on invitation. Mr. Abeywardena states definitely that he was not present at any such meeting referred to in P5. Mr. Ranganathan has not given evidence. Although Mr. Abeywardena is the Proctor for the Defendant-Company, and may therefore be considered an interested witness, I do not  
30 think that is a sufficient reason to doubt the truth of his evidence. Mr. H. R. Fernando, who gave evidence for the Plaintiffs, states that Mr. Abeywardena was present only on one day, which was the date on which the bond was signed, the 13th of August, 1960. He corrected himself later by stating that he thinks Mr. Abeywardena was present on both days, the 12th and the 13th of August, 1960, and that what he said earlier was a mistake. He then states that, as far as he remembers, Mr. Abeywardena was present on both days. When asked whether he cannot be definite about it, he answered that Mr. Abeywardene was present on both days. Although Mr. Abeywardena had admitted at one stage that he went to H. R. Fernando's house on the  
40 12th of August, 1960, he states definitely that he went there only once, and that was on the day on which the deed was signed, which was the 13th of August, 1960. He denies that he has ever been to H. R. Fernando's bungalow on any other occasion. It was submitted on behalf of the Plaintiffs that Mr. Abeywardena is confused or that his evidence is untrue. The reason why Mr. Abeywardena is said to have been taken to the bungalow and his evidence with regard to what he did there, were relied on to show the improbability of his evidence. I do not think there is sufficient reason to reject the definite evidence of Mr. Abeywardena that he was not present at a meeting which is said to have taken place on the 12th of August, 1960. H. R.  
50 Fernando states that two meetings of the Directors and a meeting of the

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 Judgment of  
 the District  
 Court—  
 12. 8. 66.  
 —Continued

shareholders were held on the 12th of August, 1960. He states that notices were sent with regard to the Extraordinary General Meeting. The notice has not been produced. He states that almost all the shareholders were present, and mentions the names of those who were present at that meeting. None of these shareholders has been called as a witness. H. R. Fernando and Chapman are the only persons who speak of this meeting at which a resolution is said to have been passed with regard to the loan. After the lunch interval, H. R. Fernando attempted to modify his earlier evidence by stating that these shareholders were represented by various persons. Even the persons who are said to have represented the shareholders have not been called as 10 witnesses. P5 gives the names of the shareholders who were present. H. R. Fernando is the only one of these persons to give evidence. Chapman's evidence is of no assistance to the Plaintiffs. He is not a shareholder, but he states that he accompanied his father, who was a shareholder. He states that three meetings were held on the 12th of August, 1960, that the first meeting was with regard to the disbursement of shares, and that he cannot remember about the second and the third meetings. He cannot remember any particulars with regard to the discussion regarding the loan. In cross-examination, he was shown certain documents which were signed on the 13th of August, 1960. He states that that was the date on which the three meetings 20 were held. He admits that it is possible that he was wrong when he stated that the meetings were held on the 12th of August, 1960. In re-examination, he states that the meetings were held on the 12th of August, 1960. No reliance can be placed on Chapman's evidence.

P5 states that E. A. S. Appuhamy and Mrs. U. Podihamine were present at the meeting of the shareholders. D7 shows that Podihamine became a shareholder only on the 13th of August, 1960. D33 is the transfer of shares in favour of E. A. S. Appuhamy. This document has originally been dated the 13th of August 1960. The word "Thirteenth" has been crossed out and the word "Twelfth" has been substituted in its place. Chapman states 30 that his father had signed it on the 13th of August, 1960. E. A. S. Appuhamy and Podihamine could not have been present as shareholders on the 12th of August, 1960, when the resolution with regard to the loan is said to have been passed. D8 is a draft of the minutes of the meeting of the 12th of August, 1960. D8A refers to the Directorate and the Transfer of Shares but not to Finance, which has been included in P 5.

Edirisinghe has given evidence for the Defendant-Company. He too states that no meeting of the shareholders was held on 12.8.60 at which a resolution sanctioning the loans referred to in the bond was passed. I have not taken his evidence into consideration as he has signed P5. On a 40 consideration of the circumstances which I referred to, I hold that no meeting of the shareholders was held on the 12th of August, 1960, at which a resolution is said to have passed with regard to the alleged loan on P1. I hold that the evidence, real as well as circumstantial, is sufficient to contradict the recital in P1 although it is a notarial document, and also the minutes P5. In view of this, the Defendant-Company had no power to borrow money.

I answer the issues as follows:-

(1) Yes.

- (2) Yes.  
 (3) Yes.  
 (4) (a) No;  
      (b) No.  
 (8) (b) (i) No;  
        (ii) No.  
        (iii) No.  
 (9) Yes.  
 (10) No.

No. 11  
 Judgment of  
 the District  
 Court—  
 12. 8. 66.  
 —Continued

10 I dismiss the Plaintiffs' action with costs.

Sgd.- A. E. R. Corea,  
*Additional District Judge.*  
 Colombo  
 12-8-66.

**NO. 12**

**DECREE OF THE DISTRICT COURT**

No. 12  
 Decree of the  
 District Court  
 12. 8. 66

DECREE  
 IN THE DISTRICT COURT OF COLOMBO

- 20 1. Dr. Henedige Charles Henry Soysa of No. 7, Greenlands  
 Avenue, Havelock Town, Colombo.  
 2. H. R. Fernando & Co. Ltd. of 131, City Mission Building,  
 Dam Street, Colombo 12.  
 3. Ceylon Finance & Securities Ltd., of 282, Grandpass  
 Road, Colombo 14.

*Plaintiffs.*

*Vs.*

No.9039/MB

The Jupiter Cigarette & Tobacco Company Limited of  
 Lady Catherine Group, Ratmalana.

*Defendant.*

30

This action coming on for disposal before A. E. R. Corea, Esquire, Additional District Judge of Colombo on the 13th day of July, 1965; 14th day of July, 1965, 1st day of October, 1965, 3rd day of December, 1965, 22nd day of March, 1966 and on the 12th day of August, 1966, in the presence of

No. 12  
Decree of the  
District Court  
12. 8. 66  
—Continued

Mr. Adv. N. Samarakoon instructed by Mr. M. Ranganathan, Proctor on the part of the Plaintiffs and of Mr. Adv. C. Renganathan instructed by Mr. A. C. Abeywardene, Proctor on the part of the Defendant.

It is ordered and decreed that the Plaintiffs' action for recovery of a sum of Rs. 125,000/- with interest thereon at 10% per annum from 13.6.62 on the footing of the Mortgage Bond No. 432 dated 13th day of August, 1960 attested by Mr. M. Ranganathan of Colombo, Notary Public, be and the same is hereby dismissed.

It is further ordered and decreed that the Plaintiffs do pay the Defendant its costs of this action as taxed by an Officer of this Court. 10

Given under my hand on this the 12th day of August 1966.

(Sgd.) .....  
Additional District Judge.  
14-10-66

Drawn by me,

Sgd. M. RANGANATHAN  
Proctor for Plaintiffs.

No. 13  
Petition of  
Appeal to the  
Supreme Court  
18. 8. 66

### No. 13

#### PETITION OF APPEAL TO THE SUPREME COURT

IN THE SUPREME COURT OF THE ISLAND OF CEYLON 20

1. Dr. Henedige Charles Henry Soysa of No.19, Bathesda Place, Colombo 5.
2. H. R. Fernando & Co. Ltd., of 64, Lauries Road, Colombo.
3. Ceylon Finance & Securities Ltd., of 282, Grandpass Road, Colombo 14.

*Plaintiffs.*

*Vs.*

The Jupiter Cigarette & Tobacco Co. Ltd., of Lady Catherine Group, Ratmalana.

*Defendant.* 30

And

1. Dr. Henedige Charles Henry Soysa of No. 19, Bathesda Place, Colombo 5.
2. H. R. Fernando & Co. Ltd. of 64, Lauries Road, Colombo.
3. Ceylon Finance & Securities Ltd., of 282, Grandpass Road, Colombo 14.

*Plaintiffs-Appellants.*

*Vs.*

The Jupiter Cigarette & Tobacco Co. Ltd., of Lady Catherine Group,  
Ratmalana.

*Defendant-Respondent.*

No. 13  
Petition of  
Appeal to the  
Supreme Court  
18. 8. 66  
—Continued

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

On this 18th day of August 1966.

The Petition of Appeal of the Plaintiffs-Appellants appearing by their  
Proctor Muthucumaran Ranganathan states as follows:—

- 10 1. The Appellants instituted this action for the recovery of a sum of Rs.  
125,000/- lent to the Respondent and for the enforcement of the mortgage  
upon Deed No. 432 dated 13.8.1960. The Respondent denied liability and  
stated that it was *ultra vires* the Company.
2. The parties went to trial upon the following issues:—
- (1) Did the Defendant by Bond No. 432 dated 13.8.1960 bind  
itself to pay the Plaintiffs the respective sums therein mentioned  
aggregating to Rs. 125,000/- with interest at 13% per annum?
- 20 (2) Did the Defendant for further securing the payment of the said  
sums referred to in issue 1, mortgage to the Plaintiffs, by way of  
primary mortgage, the properties referred to in the said bond  
and described in Schedules 1 and 2 to the plaint?
- (3) Did the Defendant fail to pay the said sum referred to in issue 1  
with interest from 13.6.1962?
- (4) If issues 1, 2 and 3 are answered in the affirmative, are the  
Plaintiffs entitled to:
- (a) judgment in a sum of Rs. 125,000/- with interest at 10%  
per annum from 13.6.1962?
- (b) enforce the mortgage upon the said Bond No. 432 in  
terms of the prayer to the plaint?
- 30 (5) Did the Defendant by the said Bond mortgage to the 1st, 2nd  
and 3rd Plaintiffs the property described in the Schedule to the  
plaint for the repayment of the respective sums due to the 1st,  
2nd and 3rd Plaintiffs?
- (6) Is there a misjoinder of parties and causes of action in the  
plaint?
- (7) If issue 6 is answered in the affirmative, can the Plaintiffs have  
and maintain this action?



No. 13  
Petition of  
Appeal to the  
Supreme Court  
18. 8. 66  
—Continued

- (8) (a) was the alleged borrowing and/or the alleged execution of the bond for the purpose of the Defendant-Company?
- (b) was there a resolution or decision of the Defendant-Company—
- (i) to borrow the alleged sums; or
- (ii) for the alleged execution of the said bond; or
- (iii) authorise the alleged borrowing and/or the alleged execution of the bond?
- (9) If issue (8) (a) and/or (b) are answered in the negative, was the alleged borrowing or execution of the bond *ultra vires* of the Defendant-Company?
- (10) If issue 9 is answered in the affirmative, can the Plaintiffs have and maintain this action?
- (11) In any event, are the Plaintiffs entitled to the relief claimed in the plaint?

After trial, the learned Additional District Judge answered the following issues as follows:—

1. Yes.
2. Yes.
3. Yes.
4. (a) No.
- (b) No.
8. (b) (i) No.
- (ii) No.
- (iii) No.
9. Yes.
10. No.

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The learned Additional District Judge did not answer the other issues. The appellant's action was therefore dismissed with costs.

3. Being aggrieved by the said judgment and order, the Plaintiffs-Appellants beg to appeal to Your Lordships' Court as follows:-

- (a) The said judgment is contrary to law and against the weight of the evidence.
- (b) The learned Judge erred in holding that the Respondent had proved the contrary as required by section 118(3) of the Companies Ordinance. The learned Judge erred in holding that P5

was disproved inspite of the fact that witness A.C. Abeywardena, Proctor admitted that he was present on 12.8.1960. The Appellants submit that this witness's evidence does not contradict the document P5. On the contrary it supports the document P5 and proved that a meeting was in fact held on 12.8.1960.

No. 13  
Petition of  
Appeal to the  
Supreme Court  
18. 8. 66.  
—Continued

- 10
- (c) The learned Additional District Judge erred in evaluating the burden of proof when he held that the Appellants had failed to prove that notices had been sent out for convening the meeting.
- (d) The learned Judge failed to take into account that there was no issue of fraud or fabrication of documents raised by the Respondent.
- (e) The learned Judge erred in law in holding that a notarial document P1 could be contradicted by oral or other evidence. The Appellants submit that in law the recitals in the said document cannot be contradicted.
- 20
- (f) The Appellants submit that they were entitled to assume that the said minutes P5 were genuine and to act upon the said assumption. The said transaction was therefore a valid and enforceable transaction.
- (g) The learned Judge failed to take into account the evidence of the Managing Director Edirisinghe who admitted that his parents became directors in the manner set out in P11. He also admitted that the Company had made statutory returns disclosing this as a loan to the Company during all subsequent years.
- 30
- (h) The learned Judge misdirected himself in evaluating the evidence in regard to the burden of proof in this case. The Appellants submit that the evidence of witness Abeywardena and the Managing Director do not discharge the burden that lay on the Respondent.

WHEREFORE the Appellants pray:—

- (a) that the order of the learned Additional District Judge be set aside and judgment and decree be ordered to be entered in favour of the Appellants as prayed for in the plaint,
- (b) for costs,
- (c) for such other and further relief as to this Court shall seem meet.

(Sgd). M. RANGANATHAN  
*Proctor for Plaintiffs-Appellants.*

**JUDGMENT OF THE SUPREME COURT**

*Before* : H. N. G. FERNANDO, C. J. and SIRIMANE, J.

*Counsel* : H. W. JAYAWARDENE, Q.C. with BEN ELIYATAMBY for the  
Plaintiffs-Appellants.

C. RENGANATHAN, Q.C. with B. J. FERNANDO for the Defen-  
dant-Respondent.

*Argued on* : November 1, 2, 5, 21, and 22, 1968.

*Decided on* : December 20, 1968.

SIRIMANE, J.

10

This was a hypothecary action filed by the three Plaintiffs against the Defendant-Company claiming a sum of Rs. 125,000 on mortgage Bond No. 432 of 13.8.60 (P1).

The Defendant-Company filed answer pleading, *inter alia*, that the borrowing was not for the purposes of the Company, that there was no resolution or decision in terms of the Articles of the Company to borrow, that the borrowing was *ultra vires*, and that the bond was, therefore not binding on the Company.

According to the recitals in the bond P1, a meeting of members had been held on 12. 8. 60 and a resolution passed authorizing the borrowing.

The learned District Judge dismissed the action on the ground that there was no meeting held on that day at which such a resolution was passed.

The bond bears the seal of the Company, and has been signed by two persons : E. A. P. Edirisinghe, and E. A. S. Appuhamy (by his thumb impression) as Directors of the Company.

The evidence shows that at some time before 16. 8. 60, E. A. P. Edirisinghe was in reality the Company itself. He owned 3239 shares out of 3241. His father, E. A. S. Appuhamy and his mother owned one share each.

The money was lent to the Defendant-Company by the Plaintiffs on three cheques, in all of which the Defendant-Company is the payee. At the time of the borrowing, the Company was in debt to the extent of about Rs. 122,000 according to D1, which is a statement of affairs of the Company as at 31.5.60. This sum includes loans advanced to the Company by Directors among whom were the three Plaintiffs and E. A. P. Edirisinghe.

P9 shows that this bond had been sent to the Registrar of Companies for registration as an instrument creating a charge over the Company's property, as required by Section 78 of the Companies Ordinance, Chapter

145. The annual returns of the Company for the years 1961, 1962 and 1963 sent to the Registrar of Companies (P7, P6 and P8) show this sum of Rs. 125,000 borrowed on this bond as a debt due from the Company.

No. 14  
Judgment of  
the Supreme  
Court—  
20. 12. 68.  
—Continued

At the time the bond was signed, E. A. P. Edirisinghe was admittedly a Director of the Company and his father E. A. S. Appuhamy, before he signed as a Director, had, according to the evidence, the terms of the bond explained to him by his own lawyer.

E. A. P. Edirisinghe giving evidence on behalf of the Defendant-Company stated that his father was a Director on 13.8.60, i.e. the day on which the bond was signed. This fact was never in dispute. So that on the face of the bond and the Defendant's own evidence relating to its execution, P1 was a perfectly valid bond and would be binding on the Company.

Was the borrowing *ultra vires*?

In the Articles of Association of the Company, under the heading "Powers and duties of Directors" Regulation 69, reads as follows:

"The Directors may from time to time at their discretion raise or borrow any sum or sums of money for the purposes of the Company in such manner and upon such terms and conditions in all respects as they think fit. Provided that the Directors shall not, without the sanction of a General Meeting of the Company so borrow any sum of money which will make the amount borrowed by the Company and then outstanding exceed the amount of the subscribed capital for the time being of the Company. Nevertheless no lender or other person dealing with the Company shall be concerned to see whether this limit is observed."

The sum borrowed is admittedly much less than the subscribed capital of the Company at that time. So that there was no necessity for a meeting or a resolution authorising the borrowing as long as it was done by two Directors for the purposes of the Company. In these circumstances, I do not think that it was necessary to decide whether, in fact, a meeting had been held to authorize the loan and the exact time and place of the meeting. It could not be seriously contended that the money borrowed was not utilized for the purposes of the Company. On the contrary, D1, P6, P7 and P8, referred to earlier, indicate that it was so used.

The three Plaintiffs had themselves been Directors of this Company, and sold their shares to Edirisinghe. It was submitted that the money borrowed on the bond was for the purpose of purchasing these shares. The evidence, however, shows that Edirisinghe had plenty of money of his own to buy these shares for himself, and the cheques D9 and D10, D62 to D64, D71 and D72 put this matter beyond doubt. These were Edirisinghe's personal cheques on which he purchased the shares.

According to the copies of the minutes P5, P10 and P11, signed by all the Directors including Edirisinghe, three meetings had been held on 12.8.60, and according to P5, a resolution was passed authorizing this loan. The

learned District Judge, on the evidence of Proctor Abeywardena, (who was alleged to have been present at that meeting, but who denied that fact), held that there was no meeting at which the loan was authorized, and that the Defendant was, therefore, not liable. He said in his judgment,

“On a consideration of the circumstances which I referred to, I hold that no meeting of shareholders was held on 12.8.60 at which a resolution is said to have been passed with regard to the alleged loan P1. I hold that the evidence, real as well as circumstantial, is sufficient to contradict the recital in P1 although it is a notarial document and also the minutes P5. *In view of this, the Defendant-Company had no power to borrow.*” 10

As pointed out earlier, under Regulation 69, no resolution was necessary to empower the Directors to raise the loan, and once it was admitted that two persons, who were, in fact Directors of the Company at the time of its execution, signed this bond, I think that the Company cannot avoid liability to repay the loan.

It is not suggested that this was anything but an honest and *bona fide* transaction. No shareholders were in any way prejudiced and all persons concerned were aware of, and consented to, the transaction.

In these circumstances, I think that the learned District Judge attached too much importance to the exact date of the meeting at which directors were 20 appointed.

Even assuming that there had been some irregularity in the appointment, the evidence (for example, P9, P6, P7 and P8) clearly shows that the Company ratified the borrowing of the loan on P1.

In *Parker and Coper Limited vs. Reading and James* (136, *Law Times*, Page 170) it was held that if all the individual corroborators, in fact, assent to a transaction which is *intra vires* the Company, although *ultra vires* the Directors, it is valid although they had not met together in one room or place, but all of them discussed and agreed to do one with another separately. In the course of his judgment, Astbury, J. said, “If Company Law enables the 30 entirety of the corroborators to ratify an irregular *intra vires* transaction, why should this not protect an honest *bona fide intra vires* transaction entered into for the benefit of the Company?”

An issue as to whether there was a misjoinder of parties and causes of action had been left unanswered by the learned District Judge and some argument was addressed to us on this point. There is a single bond on which a single property is hypothecated. The fact that there were three lenders who provided the money borrowed in different proportions, does not, in my view, preclude all three of them suing on the bond in one action. I think section 65(1) (a) of the Mortgage Act, Chapter 89, contemplates an action of this kind. 40 That section reads as follows:

“65(1) Where a mortgage bond is executed in favour of two or more persons (each of whom is hereinafter referred to as a “mortgagee”) in consideration of sums due or to be due each of such persons by the mortgagor.

(a) any such mortgagee to whom any monies secured by the mortgage are due and payable, may institute a hypothecary action for the enforcement of the mortgage, and in such action join as a defendant, every such mortgagee, who is not a plaintiff in the action."

No. 14  
Judgment of  
the Supreme  
Court—  
20. 12. 68.  
—Continued

The judgment of the learned District Judge is set aside and judgment entered for the plaintiff as prayed for in the plaint. The plaintiffs are entitled to costs of this appeal.

Sgd. A. L. S. SIRIMANE  
*Puisne Justice.*

10 H. N. G. FERNANDO, C. J.

I agree.

Sgd H. N. G. FERNANDO  
*Chief Justice.*

**No. 15**

**DECREE OF THE SUPREME COURT**

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

No. 15  
Decree of the  
Supreme Court  
20. 12. 68

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

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DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo, and others.

*Plaintiffs.*

*Vs.*

The Jupiter Cigarette & Tobacco Company Limited of Lady Catherine Group, Ratmalana.

*Defendant.*

DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo, and others.

*Plaintiffs-Appellants.*

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Against.

The Jupiter Cigarette & Tobacco Company Limited of Lady Catherine Group, Ratmalana.

*Defendant-Respondent.*

No. 15  
Decree of the  
Supreme Court  
20. 12. 68  
—Continued

Action No. 9039/MB

DISTRICT COURT OF COLOMBO

This case coming on for hearing and determination on the 1st, 2nd, 5th, 21st, 22nd November, 1968 and 20th December, 1968, upon an appeal preferred by the Plaintiffs-Appellants before the Honourable Hugh Norman Gregory Fernando, Chief Justice, and the Honourable Albert Lionel Stanley Sirimane, Puisne Justice, of this Court, in the presence of Counsel for the Plaintiffs-Appellants and the Defendant-Respondent.

It is considered and adjudged that the judgment of the District Judge be and the same is hereby set aside and judgment is entered for the Plaintiffs as 10 prayed for in the Plaint.

It is ordered and decreed that the Plaintiffs are entitled to costs of this appeal.

(Vide copy of judgment attached)

Witness the Honourable Hugh Norman Gregory Fernando, Chief Justice, at Colombo, the 28th day of December, in the year One thousand Nine hundred and Sixty eight and of Our Reign the Seventeenth.

(Seal)

Sgd. C. E. W. DE ALWIS.  
*Deputy Registrar, Supreme Court.*

No. 16

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No. 16  
Mortgage  
Decree of the  
District Court  
20. 12. 68

MORTGAGE DECREE OF THE DISTRICT COURT

MORTGAGE DECREE

IN THE DISTRICT COURT OF COLOMBO

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & CO LTD. of 131, City Mission Building, Dam Street, Colombo 12.
3. CEYLON FINANCE & SECURITIES LTD. of 282, Grandpass Road, Colombo 14.

*Plaintiffs.* 30

No. 9039/M.B.

*Vs.*

THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED  
of Lady Catherine Group, Ratmalana.

*Defendant.*

This action coming on for disposal before A. E. R. Corea Esquire, Additional District Judge of Colombo on the 13th July 1965, 14th July 1965, 1st October 1965, 3rd December 1965, 22nd March 1966, and 12th August 1966 in the presence of Mr. Adv. N. Samarakoon instructed by Mr. M. Ranganathan, Proctor on the part of the Plaintiffs and of Mr. Advocate C. Renganathan instructed by Mr. A. C. Abeywardena Proctor on the part of the Defendant.

No. 16  
Mortgage  
Decree of the  
District Court  
20. 12. 68.  
—Continued

It is ordered and decreed that the Plaintiff's action for the recovery of Rs. 125,000/- with interest thereon at 10% per annum from 13-6-62 on the footing of the mortgage bond No. 432 dated 13th day of August 1960 attested  
10 by Mr. M. Ranganathan of Colombo, Notary Public, be and the same is hereby dismissed with costs.

AND whereas the Plaintiff's abovenamed appealed against the decree of this court to the Supreme Court of the Island of Ceylon;

AND whereas by the order of the Supreme Court of the Island of Ceylon dated the 28th day of December 1968; it is considered and adjudged that the judgment of the District Judge be and the same is hereby set aside and judgment is entered for the Plaintiffs as prayed for in the plaint together with costs of the appeal,

AND in terms of the said order of the Supreme Court of the Island of  
20 Ceylon;

It is ordered and decreed that the Defendant do pay to the Plaintiffs the sum of Rs. 125,000/- with interest thereon at the rate of 10 per centum per annum from 13th day of June 1962 till 12th day of August 1966 (date of decree) and thereafter on the aggregate amount of the decree at the legal rate of 5 per centum per annum till payment in full with costs on the footing of the mortgage bond No. 432 dated 13th August 1960 attested by Mr. M. Ranganathan of Colombo, Notary Public.

It is further ordered and decreed that the properties movable and immovable described in the Schedules hereto together with all the estate right title  
30 interest property claim and demand whatsoever of the Defendant in to upon or out of the same and every part thereof are declared specially bound and executable for the payment of the said sum of Rs. 125,000/- further interests and costs of suit together with the costs in appeal on the footing of the mortgage bond No. 432 dated 13th August 1960 and attested by M. Ranganathan of Colombo, Notary Public.

It is further ordered and decreed that in default of the payment of the said sum of Rs. 125,000/- together with further interest and costs as aforesaid, the said properties morefully described in the Schedules hereto be sold by Public Auction by a licensed Auctioneer appointed by this Court after due advertisement in the Government Gazette and in at least one of the local News-  
40 papers as the said Auctioneer may consider sufficient upon conditions of sale duly approved by this Court and the said Auctioneer being further directed:—

- (i) to put up the said properties for sale first at the amount of the appraised values of each property and if there be no bidders at the amount of such valuation then at the amount due under the decree at the



No. 16  
Mortgage  
Decree of the  
District Court  
20. 12. 68  
—Continued

time of the issue of the commission and in the event of there being no bidders at such sale also then immediately thereafter to the highest bidder;

- (ii) to allow the Plaintiffs or any one else on their behalf to bid for and purchase the mortgaged properties at the sale and in the event of the Plaintiffs becoming the purchasers thereof to allow them credit to the extent of their claim and costs.

It is further ordered and decreed that the Secretary of this Court do execute a conveyance or conveyances in due form of law in favour of the purchaser or purchasers at such sale on his or their complying with the said 10 conditions of sale and producing :

- (i) If the purchaser be the Plaintiffs an order sanctioning credit allowed and in the event of the purchaser or purchasers being a third party or parties an order of this Court that the purchase money has been duly deposited in Court to the credit of this case.
- (ii) an order confirming the said sale.

It is further ordered and decreed that the proceeds of such sale be applied in and towards the payment of the said sum of Rs. 125,000/- interest and costs of suit of the Plaintiffs.

**The First Schedule above referred to**

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All that allotment of land being a divided and defined portion from and out of the land called Lady Catherine Group situated in the village of Telawela in Palle Pattu of Salpiti Korale in the District of Colombo, Western Province and bounded on the North East by the remaining portion of the same land on the South-East by the Estate Road, on the South-West by part of the same land belonging to Glaxo Laboratories (Ceylon) Limited, and on the North-West by the remaining part of the same land containing in extent one acre (A1. R0. P0.) according to Plan No. 296 dated 10th August 1957 made by K. M. Samarasinghe, Licensed Surveyor.

**The Second Schedule above referred to**

30

High Speed Tobacco Cutting Machine "SKODA" R6A

Production No. 52025  
equipped with:

1 Electric motor 440/220V

1 Tobacco knife

4 Knife holders

Set of spare parts

**Tobacco Roaster LP-1**

Production No. 13145 equipped with 2 oil burners

2 Exhausters

4 Electric motors

1 Compressor piping

**Tobacco Cooler LX-I** — equipped with

1 Exhauster

2 Electric motors

Piping

10 **Cigarette making machine “SKODA” C6**

Production No. 56375—equipped with :

3 Electric motors

Pickfront device

Second Printing device

Dust Exhausting device

Set of spare parts

Bronzing device

**Cigarette packing machine “Rose-Ru”**

Production No. 23758—equipped with :

20 Electric motor drive

Loose front foil unit

Set of spare parts

**Cellophane wrapping machine “Rose-NLG”**

Production No. 23757—equipped with :

Electric motor drive

Strip attachment

Set of spare parts

**Boiler type “VESUV”**

For full Diesel oil fuel—equipped with :

30 1 Water gauge

No. 16  
Mortgage  
Decree of the  
District Court  
20. 12. 68.  
—Continued

- 1 Pressure gauge
- 1 Filling tap
- 1 Overpressure appliance
- 1 Holder of burner
- 1 Burner PLB 1/2
- 1 Rotary compressor MR. 70-D

Piping for burnt gases

Air supply piping

Oil supplying piping

Oil reservoir

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1 Electric Motor

1 Ventilator with piping

**Grinding Machine for tobacco cutting knives**

“Skoda” BKT (second hand)

Production No. 940 — equipped with :

1 Electric motor

1 Grinding wheel

**The third schedule above referred to**

All the rents and profits or other income to return whatsoever of or accruing from the said land machinery and premises and all and every the 20 contracts and contract of insurance in respect of the land and buildings on the land in the first Schedule hereto fully described and the machinery equipment and fixtures in the second Schedule hereto fully described and such other machinery or fixtures that may be from time to time therein installed and all sums of money which may be recoverable under the said insurance or insurances and all the estate right title interest property claim and demand whatsoever of the Mortgagor in to out of or upon the same.

Sgd. ....  
*Additional District Judge.*

This 20th December 1968

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Drawn by me.

Sgd. ....  
*Proctor for Plaintiffs.*

**APPLICATION FOR CONDITIONAL LEAVE TO APPEAL TO THE  
PRIVY COUNCIL**

No. 17  
Application for  
Conditional  
Leave to Appeal  
to the Privy  
Council—  
19.1.69

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7,  
Greenland Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & CO. LTD., of No. 64, Lauries  
Road, Colombo.
3. CEYLON FINANCE & SECURITIES LTD., of No. 282,  
Grandpass, Colombo.

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*Plaintiffs-Appellants.*

S. C. No. 156/66 (Inty)  
D. C. Colombo  
Case No. 9039/MB.

*Vs.*

THE JUPITER CIGARETTE & TOBACCO CO. LTD., of Lady  
Catherine Group, Ratmalana.

*Defendant-Respondent.*

In the matter of an Application for Conditional Leave  
to Appeal to Her Majesty The Queen-in-Council under  
the Privy Council Appeals Ordinance, Chapter 100,  
Legislative Enactments.

20

THE JUPITER CIGARETTE & TOBACCO CO. LTD., of Lady  
Catherine Group, Ratmalana.

*Defendant-Respondent-Petitioner here-  
inafter referred to as the "Petitioner."*

*Vs.*

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7,  
Greenland Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & CO. LTD., of No. 64, Lauries  
Road, Colombo.
3. CEYLON FINANCE & SECURITIES CO., of No. 282,  
Grandpass, Colombo 14.

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*Plaintiffs-Appellants-Respondents hereinafter  
referred to as "Respondents".*

No. 17  
Application for  
Conditional  
Leave to Appeal  
to the Privy  
Council—  
19.1.69  
—Continued

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

On this 19th day of January 1969.

The Petition of the Defendant-Respondent-Petitioner abovenamed appearing by A. Clive Abeywardena its Proctor states as follows :—

1. By the judgment and decree of the Supreme Court pronounced in the above case on 20th day of December 1968, the Petitioner had been decreed to pay a sum of Rs. 125,000/- with interest upon Bond No. 432 dated 13-8-1960.

2. The Petitioner is desirous of appealing therefrom to Her Majesty in 10 Council.

3. The said judgment is a final judgment in a Civil Suit or action and the matter in dispute amounts to and is upwards of Rs. 5,000/- and the appeal involves directly and indirectly a claim or question exceeding Rs. 5,000/- in value.

4. The Petitioner in terms of Rule 2 of the Schedule to the Privy Council Appeals Ordinance, has within fourteen days from the date of the above judgment duly given the Respondents notice of its intended application to this Court for Leave to Appeal to Her Majesty in Council in the following manner.

(a) By Registered Post to the Respondents,

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(b) By Telegram to the Respondents,

(c) By ordinary post to the Respondents.

WHEREFORE the Defendant-Respondent-Petitioner prays that Your Lordships' Court be pleased to :—

(a) grant the Petitioner Conditional Leave to Appeal to Her Majesty the Queen in Council against the judgment of this Court dated 20-12-68.

(b) order that all proceedings in the said action be stayed pending the decision on this application,

(c) for costs, and

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(d) grant such other and further relief as to Your Lordships' Court shall seem meet.

Sgd. A. CLIVE ABEYWARDENE  
Proctor for Defendant-Respondent-Petitioner.

**MINUTE OF ORDER GRANTING CONDITIONAL LEAVE TO APPEAL  
TO THE PRIVY COUNCIL**

No. 18  
Minute of Order  
granting condi-  
tional leave to  
appeal to the  
Privy Council—  
5.5.69

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

In the matter of an application for Conditional Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

THE JUPITER CIGARETTE & TOBACCO CO. LTD., of  
Lady Catherine Group, Ratmalana.

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*Defendant-Respondent*  
*Petitioner*

S. C. Application  
No. 25/1969.  
(Conditional Leave)

*Vs.*

S. C. No. 156/66 (Inty)  
D. C. Colombo Case  
No. 9039/MB.

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1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenland Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & CO. LTD., of No. 131, City Mission Building, Dam Street, Colombo 12.
3. CEYLON FINANCE & SECURITIES LTD., of 282, Grandpass Road, Colombo 14.

*Plaintiffs-Appellants*  
*Respondents*

The application of The Jupiter Cigarette & Tobacco Co. Ltd., of Lady Catherine Group, Ratmalana, for Conditional Leave to Appeal to Her Majesty the Queen-in-Council from the judgment and decree of the Supreme Court of the Island of Ceylon pronounced on the 20th day of December, 1968 in S. C. No. 156/66 (Interlocutory) — D. C. Colombo, Case No. 9039/MB, having been listed for hearing and determination before the Honourable Anthony Christopher Augustus Alles, Puisne Justice and the Honourable Vinman Tudave Pandita-Gunawardene, Puisne Justice, in the presence of B. J. Fernando Esquire, Advocate for the Defendant-Respondent-Petitioner and Ben Eliyatamby Esquire, Advocate for the Plaintiffs-Appellants- Respondents, order has been made by Their Lordships on the Fifth day of May 1969 allowing the aforementioned application for Conditional Leave to Appeal to Her Majesty the Queen-in-Council.

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Sgd. N. NAVARATNAM  
*Registrar of the Supreme Court.*

No. 19  
Application for  
final leave to  
appeal to the  
Privy Council—  
2.6.69

## No. 19

**APPLICATION FOR FINAL LEAVE TO APPEAL TO THE PRIVY  
COUNCIL**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an Application for Final  
Leave to Appeal to Her Majesty-in-Council  
in S. C. 156/66 (Inty) — D. C. Colombo,  
Case No. 9039/MB.

THE JUPITER CIGARETTE & TOBACCO CO., LTD. of Lady  
Catherine Group, Ratmalana. 10

*Defendant-Respondent*  
*Petitioner*

S. C. 156/66 (Inty)  
D. C. Colombo, Case  
No. 9039/MB.

S.C. Application  
No. 25/69  
(for Conditional  
Leave)

*Vs.*

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7,  
Greenland Avenue, Havelock Town, Colombo.
2. H. R. FERNANDO & Co., LTD. of No. 131, City  
Mission Building, Dam Street, Colombo 12.
3. CEYLON FINANCE & SECURITIES LTD., of 282, Grand-  
pass Road, Colombo 14.

*Plaintiffs-Appellants*  
*Respondents*

TO : THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER  
HONOURABLE JUDGES OF THE SUPREME COURT OF THE 30  
ISLAND OF CEYLON.

On this 2nd day of June 1969.

The Petition of the Defendant-Respondent-Petitioner abovenamed  
appearing by A. Clive Abeywardene its Proctor states as follows:

1. The Defendant-Respondent-Petitioner on the 5th day of May 1969  
obtained Conditional Leave from this Honourable Court to appeal to Her  
Majesty-in-Council against the judgment of this Court pronounced on 20th  
December 1968 in the aforementioned case.

2. The Defendant-Respondent-Petitioner in compliance with the conditions on which such leave was granted —

No. 19  
Application for  
final leave to  
appeal to the  
Privy Council—  
2.6.69  
—Continued

(a) has deposited with the Registrar of this Honourable Court a sum of Rs. 3,000/- as security for the due prosecution of the said appeal and the payment of all such costs as may become payable to the Plaintiffs-Appellants-Respondents in the event of the Defendant-Respondent-Petitioner not obtaining an order granting Final Leave to Appeal or of the Appeal being dismissed for non prosecution or of Her Majesty the Queen-in-Council ordering this Defendant-Respondent-Petitioner to pay the Plaintiffs-Appellants- Respondents' costs (as the case may be).

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(b) has duly hypothecated the said sum of Rs. 3,000/- by bond dated the 27th day of May 1969, to and in favour of the said Registrar,

(c) has deposited with the said Registrar a sum of Rs. 300/- in respect of the amount and fees mentioned in Section 4(2) (b) and (c) in the Appeals (Privy Council) Ordinance, and

(d) has lodged with the said Registrar the stamps for the duty payable in respect of the Registrar's Certificate in appeal to the Queen-in-Council at the same time at which security was given for the prosecution of the said appeal.

20

3. The Defendant-Respondent-Petitioner has given notice of this application for Final Leave to Appeal to Her Majesty-in-Council by sending on this day by registered post to each one of the Plaintiffs-Appellants-Respondents copies of this Petition and the Affidavit filed herewith.

WHEREFOR the Defendant-Respondent-Petitioner prays that Your Lordships' Court be pleased to grant Final Leave to Appeal to Her Majesty in Council against the said judgment of this Court pronounced on the 20th day of December 1968 in the aforementioned case, for costs and for such other and further relief as to Your Lordships' Court shall seem meet.

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Sgd. A. CLIVE ABEYWARDENA  
*Proctor for Defendant-Respondent-Petitioner*

#### No. 20

### MINUTE OF ORDER GRANTING FINAL LEAVE TO APPEAL TO THE PRIVY COUNCIL

#### IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

No. 20  
Minute of Order  
granting final  
leave to appeal  
to the Privy  
Council—  
26.6.69



No. 20  
Minute of Order  
granting final  
leave to appeal  
to the Privy  
Council—  
26.6.69  
—Continued

THE JUPITER CIGARETTE & TOBACCO CO. LTD., of  
Lady Catherine Group, Ratmalana.

Defendant-Respondent  
Petitioner

S. C. No. 156/66 (Inty)  
D. C. Colombo, Case  
No. 9039/MB.

S. C. Application  
No. 25/1969

*Vs.*

(Conditional Leave)  
S. C. Application  
No. 316/69  
(Final Leave)

10

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenland Avenue, Havelock Town, Colombo.
2. H. R. Fernando & Co., Ltd., of No. 131, City Mission Building, Dam Street, Colombo 12.
3. CEYLON FINANCE & SECURITIES LTD., of 282, Grandpass Road, Colombo 14.

Plaintiffs-Appellants 20  
Respondents

The application of The Jupiter Cigarette & Tobacco Co. Ltd., of Lady Catherine Group, Ratmalana, for Final Leave to Appeal to Her Majesty the Queen in Council from the judgment and decree of the Supreme Court of the Island of Ceylon pronounced on the 20th day of December, 1968 in S. C. No. 156/66 (Interlocutory) — D. C. Colombo Case No. 9039/MB, having been listed for hearing and determination before the Honourable Albert Lionel Stanley Sirimane, Puisne Justice and the Honourable Christopher Gregory Weeramantry, Puisne Justice, in the presence of B. J. Fernando Esq., with G. Dissanayake Esquire, Advocates for the Defendant-Respondent-Petitioner and B. Eliyatamby Esquire, Advocate for the Plaintiffs-Appellants-Respondents, order has been made by Their Lordships on the 26th day of June 1969 allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen in Council.

Sgd. N. NAVARATNAM  
*Registrar of the Supreme Court.*

**PART II**  
**EXHIBITS**



**MEMORANDUM OF ASSOCIATION OF THE JUPITER  
CIGARETTE & TOBACCO COMPANY LIMITED**D 48  
Memorandum  
of Association  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.

Memorandum of Association  
of  
**THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED.**

1. The name of the Company is "THE JUPITER CIGARETTE & TOBACCO COMPANY, LIMITED.
- 10 2. The Registered Office of the Company will be situated in the District of Colombo.
3. The objects for which the Company is established are :—
  - (1) To carry on the business of growers of tobacco, manufacturers of and dealers in tobacco, cigars, cigarettes, snuff, matchlights, pipes, and any other article required by or which may become necessary to smokers, and of snuff grinders and merchants and box merchants, and to deal in any other articles and things commonly dealt with by tobacconists.
  - 20 (2) To carry on the trade or business of tobacco brokers or dealers in, or agents for the sale of tobacco including the purchase and selling of tobacco either growing or otherwise or the advancing of money by way of loan upon the security of growing crops of tobacco.
  - 30 (3) To cultivate, develop, improve, irrigate and utilise any land (within Ceylon or elsewhere) acquired by the Company or in which the Company is interested, whether for the growing of tobacco or any other crop or to lay out and prepare the same for building purposes and to construct, alter, demolish and improve buildings, roads and conveniences and to plant, drain, maintain, let, lease any such land and to advance money and enter into contracts and arrangements of any kind with builders, contractors, tenants, and lessees of or others interested in any such land.
  - (4) To erect, maintain or improve any land, factories, drying houses, curing houses, warehouses or buildings for carrying on, or to be used in connection with, the business of the Company.
  - (5) To carry on the business of chemists, druggists, dry-salters, oil and colour men, importers and manufacturers of and dealers in pharmaceutical, medicinal, chemical, industrial, and other preparations and articles, compounds, cements, oils, paints, pigments and varnishes, drugs, dyeware, paint and colour grinders, makers

of and dealers in proprietary articles of all kinds, and of electrical, chemical, photographic, surgical, and scientific apparatus and materials.

- (6) To import, buy, sell and otherwise deal in, surgical appliances, optical goods, chemicals, pharmaceutical preparations and patent medicines, and to engage in the business of chemists, pharmacists, druggists and dispensers.
- (7) To buy, sell, manufacture, refine, manipulate, import, export, and deal in all substances, apparatus, and things capable of being used in any such business as aforesaid, or required by any customer of or persons having dealings with the Company, either by wholesale or retail.
- (8) To purchase or otherwise acquire, and to sell, exchange, surrender, lease, mortgage, charge, convert, turn to account, dispose of, and deal with, property and rights of all kinds, and in particular, mortgages, debentures, produce, concessions, options, contracts, patents, annuities, licences, stocks, shares, bonds, policies, book debts, business concerns and undertakings, and claims, privileges and choses in action of all kinds.
- (9) To sell the business or undertaking of the Company or any part thereof including any shares, stock, bonds, debentures, mortgages or other obligations or securities or any or either of them, patents, trade marks, trade names, copyrights, licences, or authorities or estate rights, property, privileges or assets of any account for such consideration as the Company may think fit and in particular for shares, debentures or securities of any other company and to invest and deal with the monies of the Company in such manner as may from time to time be determined.
- (10) To promote, form, subsidise and establish any company or companies, trusts or corporations whose objects shall include the acquisition of all or any of the property, rights and liabilities of the Company or the carrying on of any such business as aforesaid and to pay the costs, charges, and expenses preliminary or incidental to the promotion, formation, establishment, registration, and advertising of any such company and the issue of capital and to guarantee the payment of any debentures, debenture stock, or other securities issued by any such company.
- (11) To insure with any other company or person against loss, damages, risks and liabilities of all kinds which may affect this Company.
- (12) To advance or lend money upon the deposit or security of contracts, hire, easy payment and other agreements, bills of lading, delivery orders, wharfingers' certificates and notes, dock warrants, and other mercantile indicia and produce of every description, and

on concessions, deeds, bonds, or other documents, and property of every description, and generally to deal with the same in such manner as the Company may think proper and to buy, sell and deal in bills, notes, warrants, coupons and other negotiable or transferable securities or documents.

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- 10 (13) To carry on business as commission agents, general or special agents, managing agents, indenting agents, selling agents, agents for railway, transport and shipping concerns and carriers, agents for aerial transport and passenger services, entrepreneurs, forwarding agents, clearing agents, estate agents and suppliers and all matters usually connected with any such business.
- (14) To carry on the business of advertising agents with power to purchase, exercise, exploit, take full benefit of, or sell, advertising rights, licences, monopolies and copyrights and to advertise through any media including newspaper, cinema slides, wall boards, hoardings on road vehicles, ocean going vessels and aeroplanes, and to hold or take part in any exhibitions, demonstrations whether industrial, commercial or otherwise.
- 20 (15) To carry on business as brokers for the sale or purchase of land or other property, produce, exchange or merchandise and manufactured goods of whatever description or for the sale of securities, stocks, shares in public or private companies or of concessions or privileges of all kinds or any other property movable or immovable.
- (16) To carry on the business of importers, distributors, exporters, general merchants and buyers and sellers of all kinds of produce, raw material or manufactured goods and to deal, both wholesale and retail in all commodities, articles and things of all kinds.
- 30 (17) Generally to carry on all such financial, commercial, trading, and other operations for business in connection with the objects of the Company as the Company may think fit.
- (18) To appoint, engage, employ, maintain, provide for and dismiss, attorneys, solicitors or proctors, agents, superintendents, managers, visiting agents, clerks, mechanics, technicians, skilled workmen and other labourers and servants and to remunerate them or any such at such rate as shall be thought fit.
- (19) To train or cause to be trained at the cost and expense of the Company any person or persons whomsoever, for any business or businesses carried on or hereafter to be carried on by the Company.
- 40 (20) To establish and support or aid in the establishment and support of associations, institutions, funds, trusts, and conveniences calculated to benefit any person (including Directors and other officers)

who may be or have been in the employment of service in any capacity of the Company or of any subsidiary company of the Company or of the predecessors in business of the Company or the dependents or connections of such persons and to grant pensions, gratuities and allowances to any such person as aforesaid and to make payments towards insurance, and to subscribe or guarantee monies for charitable or benevolent objects or for any exhibition or for any public, general or useful object.

- (21) To sell, lease, exchange, let, hire or otherwise dispose of the whole or any part of the undertaking of the Company and all or any 10 real or personal property, concessions, rights, privileges, or easements for the time being held by or on behalf of the Company, either together or in parts for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any other company having objects altogether or in part similar to those of the Company.
- (22) To take over or enter into contracts with the Government of Ceylon or the Government of any other country, or with any naval, military or foreign authorities or with any other company, person or persons and to execute the same, or to let the same to 20 subcontractors also to become surety for the due execution by contractors of the works contracted for by them and to indemnify any person or persons who may be nominated by the Company to undertake any such suretyship.
- (23) To enter into any arrangements with any government or authorities (supreme, municipal, local or otherwise) or any corporation, company or person that may see conducive to the Company's objects, or any of them and to obtain from any such government, authority, corporation, company, or person any charters, contracts, decrees, rights, privileges and concessions, which the 30 Company may think it desirable to obtain and to carry out, exercise and comply with any such arrangements, charters, contracts, decrees, rights, privileges and concessions.
- (24) To unite, co-operate or enter into partnership or any agreement for sharing profits or union of interests, co-operation, joint adventure, reciprocal concession, or otherwise or any other arrangement with any person or persons, company or companies, already engaged in or hereafter to be established for the purpose of carrying on any business having objects wholly or in part similar, analogous or subsidiary to those of this Company or to any of 40 them or capable of being conducted so as to benefit this Company either directly or indirectly and to subscribe for or otherwise acquire for the benefit and in the name of this Company or otherwise any interest in any such company or partnership and pay for the same in any manner that may be agreed upon either in money or in shares or bonds or otherwise, and to hold any shares, stock or other interest in any such company and to promote the formation of any such company.

- (25) To acquire and undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business which the Company is authorised to carry on or possessed of property suitable for the purpose of this Company and with a view thereto to enter into any agreement and to carry the same into effect.
- 10 (26) To apply for, and to purchase and acquire, letters, patent and similar privileges and concessions, both local and foreign, for inventions or improvements in any invention which may be conducive to the attainment of any of the objects of the Company, or in any way connected therewith, or any interest in any such invention or patents, and licence or licences in connection therewith and to finance inventors of alleged inventions for the purpose of enabling them to test or perfect inventions.
- 20 (27) To sell, any patent rights, or privileges belonging to the Company or which may be acquired by it, or any interest in the same, and to grant licences for the use and practice of the same or any of them, and to let or allow to be used or otherwise deal with any inventions, patents or privileges which the Company may be interested in and to do all such acts and things as may be deemed expedient for turning to account any inventions, patents and privileges in which the Company may be interested.
- (28) To adopt such means of making known the products of the Company as may seem expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or publication of books and periodicals, by conducting competitions and by granting prizes, rewards and donations thereof.
- 30 (29) To draw, accept, endorse, negotiate, purchase, lend money upon discount, hold and dispose of promissory notes, bills of exchange, bankers drafts, warrants, bills of lading or any token of produce or merchandise, whether foreign or inland, or mortgages, bonds, debentures, shares (except shares of this Company) or other securities.
- (30) To remunerate any person, firm or company rendering service to the Company by cash payment or by the allotment to him or them of shares, debentures, debenture stock, or securities of the Company credited as fully paid up or otherwise.
- 40 (31) To pay for any lands and real or personal, immovable or movable, estate or property assets of any kind acquired or to be acquired by the Company or for any services rendered or to be rendered to the Company and generally to pay or discharge any consideration to be paid or given by the Company in money or in shares or debentures, or debenture stock or obligations of the Company or partly in one way and partly in another, or otherwise howsoever with power to issue any shares either fully or partly paid up for such purpose.



- (32) To distribute any of the property of the Company amongst the members in specie or kind whether by way of divided or upon a return of capital, but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required, by law.
- (33) To procure the Company to be registered in any foreign country or place.
- (34) To borrow or raise money or to receive money on deposit at interest and to secure the payment of money in such manner as the Company may think fit, and in particular by the issue of debentures or debenture stock, perpetual or otherwise, whether convertible into shares of this Company or not, to mortgage, pledge or charge the whole or any part of the property assets or revenue of the Company, present or future, including its uncalled capital by assignment or otherwise or to transfer or convey the same absolutely or in trust and to give lenders power of sale and other powers as may seem expedient and to purchase, redeem, or pay off any such securities.
- (35) To accept as consideration for the sale or disposal of any lands and real or personal, immovable and movable, estate, property and assets of the Company of any kind sold or otherwise disposed of by the Company or in discharge of any other consideration to be received by the Company in money or in shares (whether wholly or partly paid up) of any company whose objects are similar to those of this Company or the mortgages, debentures, or obligations of any company whose objects are similar to those of this Company or partly one and partly the other.
- (36) To obtain any provisional order or Act of Parliament for enabling the Company to carry any of its objects into effect or for effecting any modification of the Company's constitution, or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated, directly or indirectly, to prejudice the Company's interests.
- (37) To do all or any of the above things in any part of the world and as principals, agents, contractors, trustees or otherwise, and by or through trustees, agents, or otherwise, and either alone or in conjunction with others.
- (38) To do all such things, as are incidental or conducive to the attainment of the above objects or any of them.

The objects set forth in any sub-clause of this clause shall not, except when the context expressly so requires, be in any wise limited or restricted by reference to or inference from the terms of any other sub-clause, or by the name of the Company; none of such sub-clauses or the objects therein specified or the powers thereby conferred shall be deemed subsidiary or auxiliary merely



implication modified, excluded or otherwise varied or departed from and it is hereby expressly declared that Table 'A' as so varied shall constitute the Articles of Association of the Company.

### PRELIMINARY

2. After Regulation 1 of Table 'A' the following Regulations shall be inserted :—

“1(a) In these Regulations :

'The Company' shall mean 'The Jupiter Cigarette & Tobacco Company Limited.' 'Special Resolution' and Extraordinary Resolution shall have the meanings assigned thereto 10 respectively by the Ordinance.

'The Directors' shall mean the Directors of the Company for the time being acting in conformity with these Regulations.

'In Writing' and 'written' shall include printing, lithography and other modes of representing or reproducing words in a visible form.

Words importing the singular number only shall include the plural.

Words importing the masculine gender only shall include the feminine gender. 20

Words importing persons shall include corporations.

1(b) The Company is a private company within the meaning of Section 27, sub-section (1) of the Ordinance, and accordingly the Company —

- (i) Limits the number of its members to fifty, not including persons who are in the employment of the Company and persons who, having been formerly in the employment of the Company were, while in that employment, and have continued after the determination of that employment to be, members of the Company; but 30 where two or more persons hold one or more shares jointly they shall for the purpose of this Article be treated as a single member.
- (ii) Prohibits any invitation to the public to subscribe for any shares or debentures or debenture stock of the Company; and
- (iii) Restricts the rights to transfer its shares as hereinafter provided.

- 1(c) No transfer of any shares of the Company shall be registered, the registration of which would involve a contravention of clause (1) of the foregoing Regulation and the registration of any transfer of shares which may make the number of members in excess of the permissible maximum of fifty, if effected, shall be null and void and shall not entitle any transferee to claim any right of membership or other rights whatsoever by virtue of any such registration.”

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## SHARES

- 10 1(d) Subject to the provisions of Regulation 1(b) hereof the shares shall be under the control of the Directors who may allot or otherwise dispose of the same to such persons, on such terms and conditions and either at a premium or at par or at a discount and at such times as the Directors think fit and with full power to give any persons the call of any shares either at par or at a premium, during such time and for such consideration as the Directors think fit.

- 20 1(e) If by the conditions of allotment of any share the whole or part of the amount or issue price thereof shall be payable by instalments, every such instalment shall, when due, be paid to the Company by the person who for the time being and from time to time shall be the registered holder of the share or his legal personal representative.

- 1(f) Save as herein otherwise provided the Company shall be entitled to treat the registered holder of any share as the absolute owner thereof and accordingly shall not except as ordered by a court of competent jurisdiction or as by statute required be bound to recognise any equitable or other claim to or interest in such share on the part of any other person.

- 30 3. In Regulation 2 of Table 'A' the words "extraordinary resolution" shall be substituted for the words "special resolution".

## LIEN

4. Regulation 7 of Table 'A' is expressly excluded and the following substituted therefor :

- 40 "7. The Company shall have a first and paramount lien upon all the shares registered in the name of each member whether solely or jointly with others and upon the proceeds of sale thereof for his debts, liabilities and engagements solely or jointly with any other person to or with the Company whether the period for the payment, fulfilment or discharge thereof shall have actually arrived or not and no equitable interest in any shares shall be created except upon the footing and condition that Regulation 1(f) hereof is to have full effect and such lien shall extend to all dividends from time

to time declared in respect of such shares. Unless otherwise agreed the registration of a transfer of shares shall operate as a waiver of the Company's lien, if any, on such shares."

5. Regulation 10 of Table 'A' is expressly excluded and the following substituted therefor :

"10. The proceeds of sale of such shares shall be applied in payment of such debts, liabilities, and engagements as and when the period for the payment, fulfilment or discharge thereof respectively arrives and any surplus shall be paid to such member, his executors, administrators or assigns".

10

### TRANSFER AND TRANSMISSION OF SHARES

6. Regulation 19 of Table 'A' is expressly excluded and the following Regulations are substituted therefor :

"19. Subject to the restrictions hereinafter contained a share may be transferred by a member or other persons entitled to transfer to a member selected by the transferor and no share shall be transferred to a person who is not a member so long as a member or any person selected by the Directors as one whom it is desirable in the interests of the Company to admit to membership is willing to purchase the same at a price mutually agreed between the transferor and such member or person. If there be no such member or person so willing to purchase the shares offered the proposing transferor shall be at liberty to transfer such shares to any person at any price not being less than the price offered to such member or person, subject however to the provisions of Regulation 19(b) hereof.

19(a) No transfer of shares shall be made to a minor or person of unsound mind.

19(b) The Directors may refuse to register any transfer of a share — (a) where the Company has a lien on the share, or (b) where the Directors are not of opinion that it is desirable to admit the proposed transferee to membership. But item (b) of this Regulation shall not apply where the proposed transferee is already a member holding more than 10 per centum of the issued capital.

19(c) The Directors may decline to recognise any instrument of transfer unless a fee not exceeding two rupees is paid to the Company in respect thereof, and the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.

19(d) If under Regulation 19(c) or under Regulation 19(d) hereof the Directors refuse to register a transfer of any shares they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal".

## FORFEITURE OF SHARES

7. At the end of Regulation 23 of Table 'A' the following words shall be added, namely: "and all expenses that may have been incurred by the Company by reason of such nonpayment".

8. At the end of Regulation 25 of Table 'A' the following words shall be inserted, namely: "such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before the forfeiture".

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## ALTERATION OF CAPITAL

9. After Regulation 35 of Table 'A' the following words shall be added:

10 "The Directors may also, at their discretion, allot any unissued shares in payment of any estates, lands or other property purchased or acquired by the Company or for services rendered or to be rendered to the Company without offering such shares to the registered shareholders of the Company".

## PROCEEDINGS AT GENERAL MEETINGS

10. Regulations 48, 49, 50 and 51 of Table 'A' are expressly excluded and the following substituted therefor:

20 "48. If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as Chairman, the members present shall choose some other Director present or in default of Directors some one of their number to be Chairman.

49. The Chairman may, with the consent of any meeting at which a quorum is present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

30 50. At any general meeting every resolution shall in the first instance be decided by a show of hands and unless a poll be immediately demanded by the Chairman or by some member or his proxy or attorney present at the meeting and entitled to vote a declaration by the Chairman that a resolution has been carried and an entry to that effect in the minute book of the Company shall be sufficient evidence of the fact without proof of the number of votes recorded in favour of or against such resolution.

51. If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded".

## VOTES OF MEMBERS

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11. Regulation 54 of Table 'A' is expressly excluded and the following substituted therefor :

"54. Subject to any special rights or restrictions as to voting affecting any particular class of shares, on a show of hands every member entitled to vote who (being an individual) is present in person or by an attorney who is not a member or (being a corporation) is present by a representative or proxy or attorney, shall have one vote. Upon a poll every member who is present in person or by proxy or by attorney shall be entitled to one vote for each share held by him".

12. Regulation 58 of Table 'A' is expressly excluded and the following substituted therefor :

"58. Votes may be given either personally or by attorney or by proxy or in the case of a company by a representative duly appointed under Regulation 63 hereof or by proxy or by an attorney and no company which is a member of this Company shall vote by proxy at any meeting of this Company so long as a resolution of its Directors under Regulation 63 hereof is in force."

13. Regulations 59 of Table 'A' is hereby amended by the deletion of the words: "A proxy need not be a member of the Company", and by substituting therefor the words: "no person other than a member of the Company shall be entitled to be a proxy."

## DIRECTORS

14. Regulations 64, 65 and 66 are expressly excluded and the following substituted therefor :

"64. The number of Directors shall not be less than three nor more than five.

65. The qualification of a Director shall be the holding of at least one share in the Company.

30

66. The remuneration of the Directors shall from time to time be determined by the Company in General Meeting.

66(a) The Directors shall be entitled to be paid their reasonable travelling and hotel and other expenses incurred in consequence of their attendance at board meetings, and otherwise in execution of their duties as Directors.

66(b) If any Director being willing shall be called upon to perform any services beyond those ordinarily required of him as a Director or to make any special exertions in going or residing abroad or

otherwise for any of the purposes of the Company, the Company shall remunerate such Director, either by a fixed sum or by a percentage of profits or otherwise as may be determined by the Directors”.

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## POWERS AND DUTIES OF DIRECTORS

15. Regulation 69 of Table ‘A’ is expressly excluded and the following Regulations substituted therefor :—

10 “69. The Directors may from time to time at their discretion raise or borrow any sum or sums of money for the purpose of the Company in such manner and upon such terms and conditions in all respects as they think fit. Provided that the Directors shall not, without the sanction of a General Meeting of the Company so borrow any sum of money which will make the amount borrowed by the Company and then outstanding exceed the amount of the subscribed capital for the time being of the Company. Nevertheless no lender or other person dealing with the Company shall be concerned to see whether this limit is observed.

20 “69(a). The Directors may for the purpose of raising or securing the repayment of any sum or sums borrowed as aforesaid and interest thereon create and issue any bonds, perpetual or redeemable debentures or debenture stock of the Company charged upon all or any part of the property of the Company both present and future including its uncalled capital for the time being”.

## THE SEAL

16. Regulation 71 of Table ‘A’ is expressly excluded and the following Regulation substituted therefor :—

30 “71. The Seal of the Company shall not be affixed to any instrument except in the presence of two or more of the Directors, or of one Director and the Secretary or Secretaries who shall attest the sealing thereof; such attestation on the part of the Secretaries, in the event of a firm or registered company being the Secretaries, being signified by a partner or duly authorised manager, director, secretary, attorney or agent of the said firm or company signing for and on behalf of the said firm or company as such secretaries.”

## DISQUALIFICATION OF DIRECTORS

17. Regulation 72 of Table ‘A’ is expressly excluded and the following Regulations substituted therefor :

40 “72. The office of a Director shall be vacated if he —  
(a) becomes insolvent or suspends payment or compounds with his creditors or files a petition for the liquidation of his affairs;  
or



- (b) is found lunatic or becomes of unsound mind; or
- (c) resigns his office by notice in writing to the Company, or
- (d) is requested in writing by all his co-Directors to resign or is removed from office by an extraordinary resolution of the Company; or
- (e) becomes prohibited from being a Director by reason of any order made under section 208 of the Ordinance; or
- (f) ceases to hold the number of shares required to qualify him for office or fails to acquire the same within two months after his election or appointment.

10

72(a) No Director shall be disqualified by his office from holding any office or place of profit under the Company or under any company in which this company shall be a shareholder or otherwise interested or from contracting with the Company either as a vendor, purchaser, or otherwise, nor shall any such contract or any contract or arrangement entered into by or on behalf of the Company in which any Director shall be in any way interested be avoided, nor shall any Director be liable to account to the Company for any profit arising from any such office or place of profit or realised by any such contract or arrangement by reason only of such Director holding that office or of the fiduciary relations thereby established but it is declared that the nature of his interest must be disclosed by him at the meeting of the Directors at which the contract or arrangement is first taken into consideration if his interest then exists or in any other case at the first meeting of the Directors after the acquisition of his interest. If a Director becomes interested in a contract or arrangement after it is made or entered into the disclosure of his interest shall be made at the first meeting of the Directors held after he becomes so interested. A Director may, however, as a Director, vote in respect of any contract or arrangement in which he is so interested as aforesaid, but this right may at any time be suspended or withdrawn to any extent and either generally or in respect of any particular contract, arrangement or transaction by the Company in General Meeting. A general notice that a Director is a member of any particular firm or company or a Director of any particular company and is to be regarded as interested in any subsequent transaction with such firm or company shall as regards any such transaction be sufficient disclosure under this Regulation and after such general notice it shall not be necessary to give any special notice relating to any particular transaction with such firm or company".

30

40

### PROCEEDINGS OF DIRECTORS

18. After Regulation 88 of Table 'A' the following Regulation shall be inserted namely :

'88(a) A resolution in writing signed by all the Directors in Ceylon shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted".

## DIVIDENDS AND RESERVE

D 48  
Memorandum  
of Association  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
—Continued

19. Regulation 93 of Table 'A' is expressly excluded and the following substituted therefor :

10 “93. The Directors may, before recommending any dividend set aside, out of the profits of the Company, such sums as they think proper as a reserve fund to meet contingencies, or for equalising dividends, or for special dividends, or for repairing, improving and maintaining any of the property of the Company, and for such other purposes as the Directors shall in their absolute discretion think conducive to the interest of the Company; and may invest the several sums so set aside upon such investments (other than shares of the Company) as they think fit, and from time to time, deal with and vary such investments and dispose of all or any part thereof for the benefit of the Company, and may divide the reserve fund into such special funds as they think fit and employ the reserve fund or any part thereof in the business of the Company and that without being bound to keep the same separate from the other assets.

20 93(a) Any general meeting declaring a dividend may resolve that such dividend be paid wholly or in part by the distribution of specific assets, and in particular of paid up shares, debentures, or debenture stock of the Company or paid up shares, debentures or debenture stock of any other company or in any one or more of such ways.

30 93(b) Any general meeting may resolve that any moneys, investments, or other assets forming part of the undivided profits of the Company standing to the credit of the reserve fund or in the hands of the Company and available for dividend (or representing premiums received on issue of shares and standing to the credit of the share premium account) be capitalised and distributed amongst such of the share-holders as would be entitled to receive the same if distributed by way of dividend and in the same proportions on the footing that they become entitled thereto as capital and that all or any part of such capitalised fund be applied on behalf of such shareholders in paying up in full any unissued shares of the Company which shall be distributed accordingly or in or towards payment of the uncalled liability on any issued shares, and that such distribution or payment shall be accepted by such shareholders in full satisfaction of their interest in the said capitalised sum.

40 93(c) For the purpose of giving effect to any resolution under the two last preceding Articles the Directors may settle any difficulty

which may arise in regard to the distribution as they think expedient, and in particular may issue fractional certificates and may fix the value for distribution of any specific assets, and may determine that cash payments shall be made to any member upon the footing of the value so fixed or that fractions of less than one rupee may be disregarded in order to adjust the rights of all parties, and may vest any such cash or specific assets in trustees upon such trusts for the persons entitled to the dividend or capitalised fund as may seem expedient to the Directors”.

## ACCOUNTS

10

20. Regulation 101 of Table ‘A’ is expressly excluded and the following Regulation substituted therefor:

“101. No member of the Company shall be entitled to be furnished with copies of any profit and loss accounts or balance sheets and reports as are referred to in Section 121 of the Ordinance except upon a written request in that behalf made by him to the Company and on payment of the fees prescribed by section 128(2) of the Ordinance”.

## NOTICE

21. Regulation 104 of Table ‘A’ is expressly excluded and the following 20 substituted therefor :

“104. As regards those members who have no registered address in Ceylon and have not supplied to the Company an address in the Island for the giving of notices to them a notice posted up in the Office shall be deemed to be well served on them at the expiration of twenty four hours after it is so posted up”.

## WINDING-UP

22. Regulation 107 of Table ‘A’ is expressly excluded and the following Regulations shall be inserted immediately after Resolution 106 of Table ‘A’.

“107. If the Company shall be wound up, whether voluntarily or 30 otherwise the liquidators may, with the sanction of an extraordinary resolution divide among the contributories, in specie or kind, any part of the assets of the Company, and may with the like sanction, vest any part of the assets of the Company, in trustees upon such trusts for the benefit of the contributories or any of them as the liquidators with the like sanction shall think fit.

10

108. If thought expedient any such division may be otherwise than in accordance with the legal rights of the contributories except where unalterably fixed by the Memorandum of Association and in particular any class may be given preferential or special rights, or may be excluded altogether or in part; but in case any division otherwise than in accordance with the legal rights of the contributories shall be determined on any contributory who would be prejudiced thereby shall have a right to dissent and ancillary rights as if such determination were a special resolution passed pursuant to section 225 of the Ordinance.

109. In case any shares to be divided as aforesaid involve a liability to calls or otherwise any person entitled under such division to any of the said shares may within ten days after the passing of the extraordinary resolution by notice in writing direct the liquidators to sell his proportion and pay him the nett proceeds and the liquidators shall, if practicable act accordingly."

#### INDEMNITY

20

"110. Every director, manager, or officer of the Company or any person (whether an officer of the Company or not) employed by the Company as Auditor shall be indemnified out of the funds of the Company against all liability incurred by him as such director, manager, or officer or auditor in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under section 353 of the Ordinance in which relief is granted to him by the Court."

We, the several persons whose names are subscribed being subscribers to the Memorandum of Association, hereby agree to the foregoing Articles of Association.

CHATHAMPALLI POOVADAN SIVADAS

30

*Merchant,*

22, Mount Pleasant, Colombo 9.

RAMALINGAM JAIKISHAN GIRIJASHANKAR

*Engineer,*

4, Abeyawickrema Avenue,  
Mt. Lavinia.

Witness to the above signatures at Colombo, this                      day of.                      1957.

## D 1 A

D 1 A  
Statement of  
Affairs of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd. from  
March 1957 to  
June 1959

**STATEMENT OF AFFAIRS OF THE JUPITER  
CIGARETTE & TOBACCO CO. LTD.  
FROM MARCH 1957 TO JUNE 1959**

**STATEMENT OF AFFAIRS FROM MARCH 1957 TO JUNE 1959.**

INVESTMENTS		EXPENSES	
Mrs. V. S. M. De Mel ..	17,500.00	Land .. ..	52,000.00
Mr. W. M. De Mel ..	12,500.00	Registration ..	1,412.50
Mr. V. M. De Mel ..	2,500.00	Buildings paid to date ..	43,857.40
Mr. H. C. Pieris ..	12,500.00	Machinery ..	148,119.05 <sup>10</sup>
Mr. H. R. Fernando ..	20,000.00	Duty paid ..	36,269.29
Mr. S. P. Fernando ..	5,000.00	Flavour, casing ..	1,835.00
Dr. H. C. H. Soysa ..	32,500.00	Car .. ..	13,706.08
Mr. H. C. E. Soysa ..	27,500.00	Tobacco Purchased ..	32,254.80
Miss H. I. H. Soysa ..	8,000.00	Storage Charges ..	3,562.50
Mr. H. A. V. Soysa ..	6,000.00	Salaries & Wages ..	17,930.00
Mr. W. S. W. Soysa ..	5,000.00	Salaries & passage to	
Mr. P. E. R. Dias ..	20,000.00	Mr. Kodytek ..	5,965.00
Mr. Kanapathy Chetty	10,000.00	Stamp duty ..	2,250.00
Mr. K. Selvanathan ..	70,000.00	Electricity Mains ..	2,459.99 <sup>20</sup>
Mr. E.A.P. Edirisinghe	100,000.00	Electricity Fittings ..	1,000.00
Mr. H. F. Chapman ..	25,000.00	Electricity 3 phase ..	3,646.25
Mr. R. B. Menon ..	5,000.00	Drains to Factory ..	911.00
Mr. Sivadas .. ..	14,500.00	Coiling for hot room ..	375.00
		Drainage .. ..	4,400.00
		Water Service ..	1,600.00
		Gate Pillars .. ..	350.00
		Gates .. ..	275.00
		Culvert .. ..	410.00
		Road construction ..	890.00 <sup>30</sup>
		Fencing Posts ..	450.00
		Barbed Wire .. ..	360.00
		Partition of Office ..	620.60
		Grills .. ..	56.00
		Boiler Fittings ..	680.50
		Other Expenses*** ..	2,654.04
		Bank Charges (appro)..	3,800.00
		Cash in Banks (appro) ..	9,400.00
	Rs. <u>393,500.00</u>		Rs. <u>393,500.00</u>

\*\*\*

**Other Expenses:—**

40

For repairing the broken portion of the factory main entrance, entering machinery, crane, reconstruction of the broken portion, concreting the lavatories (floors) plastering the lavatory walls, fixing up of the windows with wire mesh, equipments such as trollies, aluminium trays, sprayer, measuring apparatus, hygrometers, workshop equipments, tools etc.

## D 1 B

**BALANCE SHEET OF THE JUPITER CIGARETTE & TOBACCO  
CO. LTD.**

D 1 B  
Balance Sheet  
of the Jupiter  
Cigarette &  
Tobacco Co.  
Ltd.  
31. 12. 59

**THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

**Balance Sheet as at 31st December 1959**

**FIXED ASSETS**

Land and buildings	..	116,894.65	
Plant & Machinery	..	151,562.63	
Factory tools and equipment	..	1,510.00	
10 Furniture & Fittings	..	1,964.30	
Vehicles	.. ..	13,380.08	285,311.66
		<hr/>	

**CURRENT ASSETS**

Stock	.. ..	110,066.30	
Deposits	.. ..	2,628.75	
Bank of Ceylon No. 1 A/C.	..	614.05	
Cash in hand	.. ..	100.58	
Suspense Account	.. ..	4,949.43	118,359.11
		<hr/>	<hr/>
			403,670.77

*LESS*20 **CURRENT LIABILITIES**

Bank of Ceylon No. 2 A/c.	..	4,070.67	
Indian Bank Ltd.	.. ..	9,316.93	
Loans - general	.. ..	34,705.05	48,092.65
		<hr/>	<hr/>

355,578.12

Preliminary Expenses	..		2,250.00
Preliminary Expenses	..		58,521.88
			<hr/>

416,350.00**REPRESENTING THE FOLLOWING**

Share Capital	.. ..	324,100.00	
30 Application & Allotment A/c		92,250.00	
		<hr/>	<hr/>
			416,350.00
			<hr/>
			416,350.00

D I C  
Preliminary  
Expenses in-  
curred by The  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
31. 12. 59

## D I C

**PRELIMINARY EXPENSES INCURRED BY THE JUPITER  
CIGARETTE & TOBACCO CO. LTD.**

**THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

**PRELIMINARY EXPENSES INCURRED UP TO  
31ST DECEMBER 1959**

Managing Director's Allowance	..	..	..	..	20,100.00
Executive Staff Salaries	..	..	..	..	6,675.65
Salaries & Wages Account	..	..	..	..	11,430.53
Trade Marks	..	..	..	..	36.10 10
Vehicle Maintenance	..	..	..	..	967.94
Stores Rent	..	..	..	..	4,688.42
Licence Fees	..	..	..	..	330.00
Bank Charges	..	..	..	..	681.42
Insurance Account	..	..	..	..	591.50
Travelling	..	..	..	..	4,031.87
Electricity	..	..	..	..	843.89
Canteen Expenses	..	..	..	..	163.82
Rates & Taxes	..	..	..	..	6,025.36
Interest	..	..	..	..	76.00 20
Trade Expenses	..	..	..	..	754.90
Telephone Account	..	..	..	..	460.00
Postage	..	..	..	..	67.05
Machinery Maintenance	..	..	..	..	147.48
Transport	..	..	..	..	226.00
Printing & Stationery	..	..	..	..	266.05
					<u>58,563.98</u>

**PROFIT & LOSS ACCOUNT FOR THE PERIOD JUNE 1957 TO  
31ST DECEMBER 1959**

Income Earned	..	..	..	..	42.10 30
Expenditure Incurred	..	..	..	..	58,563.98
					<u>58,521.88</u>

## D 1

**CURRENT STATEMENT OF AFFAIRS OF THE JUPITER  
CIGARETTE & TOBACCO CO. LTD.**

D 1  
Current State-  
ment of Affairs  
of the Jupiter  
Cigarette &  
Tobacco Co.  
Ltd.  
31. 5. 60

**JUPITER CIGARETTE & TOBACCO COMPANY LIMITED  
CURRENT STATEMENT OF AFFAIRS AS AT 31.5.1960**

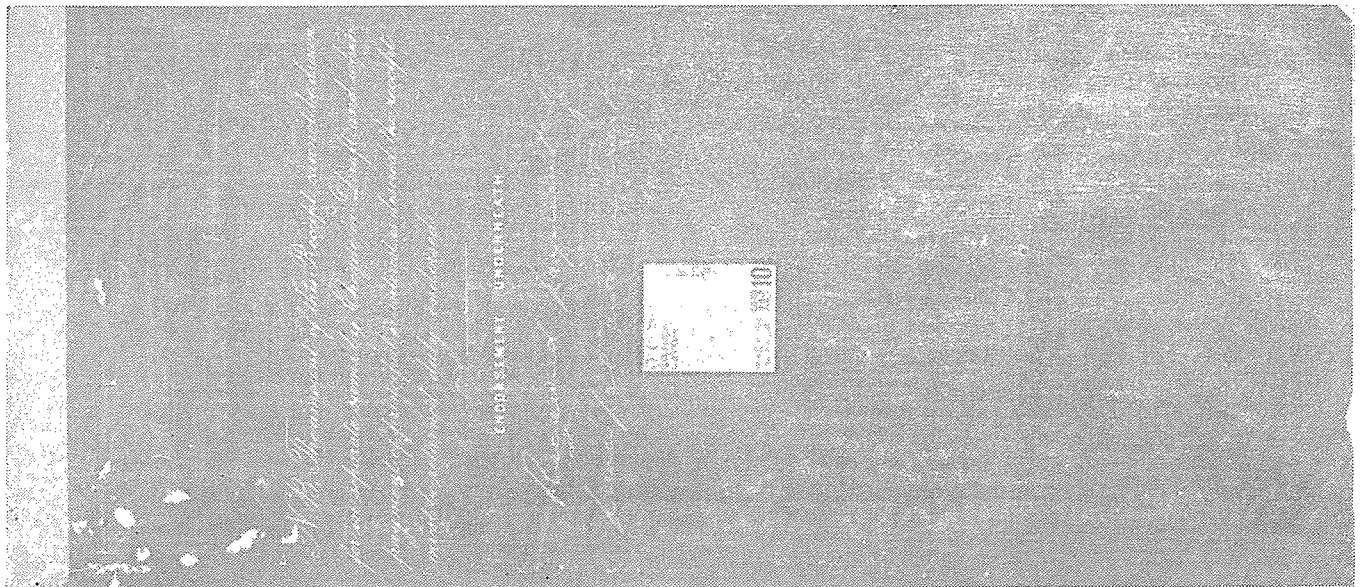
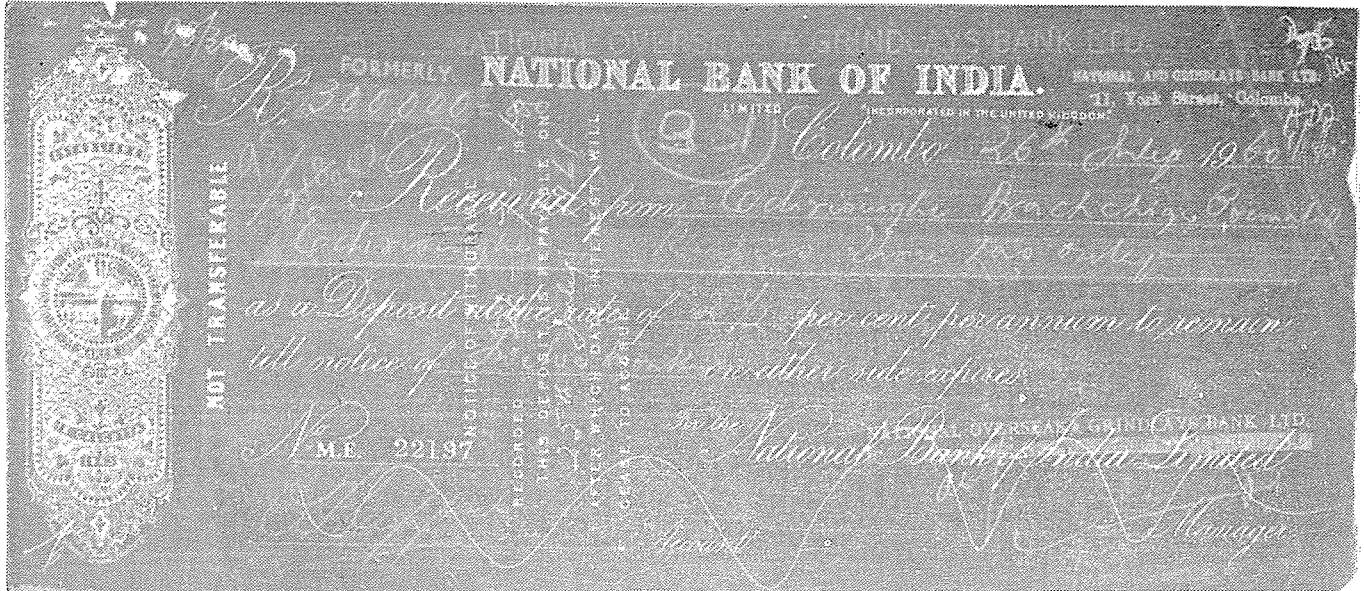
<b>LIABILITIES</b>	<b>ASSETS</b>
Capital .. .. 433,500.00	Land .. .. 55,612.00
Loans by Directors .. 84,413.00	Building (including drai- nage, lighting etc. .. 74,799.00
Sundry bills outs- tanding .. .. 9,355.00	Machinery and other connected expenses 340,585.00
Loans due to customers 9,975.00	Motor Vehicles- .. 22,580.00
Indian Bank Ltd. Over- draft A/c. .. .. 18,000.00	Furniture .. .. 2,564.00
Amount due to Kova (Machinery suppliers) 108,252.00	Tools .. .. 2,710.00
	Deposits .. .. 2,628.00
	Stock of tobacco and other materials .. 113,978.00
	Salary (Sivadas) .. 20,100.00
	Preliminary Expenses 27,959.00
Rs. 663,515.00	Rs. 663,515.00



D 76

RECEIPT FOR RS. 300,000/- ISSUED TO E. A. P. EDIRISINGHE  
BY THE NATIONAL OVERSEAS & GRINDLAYS BANK LTD.

D 76  
Receipt for  
Rs. 300,000/-  
issued to E.A.P.  
Edirisinghe by  
the National &  
Grindlays Bank  
Ltd.  
26. 7. 60



## D 8

**DRAFT MINUTES OF THE MEETING OF THE BOARD OF  
DIRECTORS OF THE JUPITER CIGARETTE & TOBACCO  
CO. LTD.**

The Minutes of the Board of Directors of Messrs Jupiter Cigarette & Tobacco Co. Ltd. held at 5 p.m. on Friday the 12th August 1960 at 64, Lauries Road, Colombo.

Present:—

10                    Mr. H. R. Fernando (Chairman)  
                      Mr. K. Selvanathan  
                      Dr. H. C. H. Soysa  
                      Mr. C. P. Sivadas  
                      Mr. E. A. P. Edirisinghe  
                      Mr. H. F. Chapman.

1. **Transfers:**

In terms of Article 6 of the Company's Articles of Association, it is hereby unanimously resolved that the *four* transfers *two* for one share each by Mr. E. A. P. Edirisinghe to Mr. E. A. S. Appuhamy and Mrs. U. Podihamine ~~\*[redacted]~~ and one by 20 *Mr. H. F. Chapman to Mr. Edirisinghe Arachige Samel Appuhamy for one share and the other by Mr. C. P. Sivadas to Mrs. U. Podihamine for one share be and the same are hereby approved and accepted.*

*Secretary*

*Chairman*

*\*(The words "be and the same are hereby approved and accepted", have been struck off in ink in the original document.)*

*(The words in italics are in handwriting in ink.)*

## D 8A

**DRAFT MINUTES OF THE EXTRAORDINARY GENERAL  
MEETING OF THE SHAREHOLDERS OF THE JUPITER  
CIGARETTE & TOBACCO CO. LTD.**

30                    The Minutes of the Extraordinary General Meeting of the Shareholders of Messrs. Jupiter Cigarette and Tobacco Co. Ltd. held at 64, Lauries Road, Colombo at 5.30 p.m. on Friday the 12th August 1960.

Present:—

40                    Mr. H. R. Fernando (Chairman)  
                      Mr. K. Selvanathan  
                      Dr. H. C. H. Soysa  
                      Mr. H. C. E. Soysa  
                      Mr. E. A. P. Edirisinghe  
                      Mr. C. P. Sivadas  
                      Mr. H. F. Chapman.

D 8  
Draft Minutes  
of the Meeting  
of The Board of  
Directors of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.—  
12. 8. 60

D 8 A  
Draft Minutes  
of the Extra-  
ordinary  
General Meeting  
of the sharehol-  
ders of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.—  
12. 8. 60

D 8 A  
Draft Minutes  
of the Extra-  
ordinary  
General Meeting  
of the Sharehol-  
ders of The  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
12. 8. 60  
—Continued

Messrs. A. Clive Abeywardene and Mr. M. Ranganathan, Proctors were present on invitation.

### 1. Directorate

- (a) Letters of resignation from the Directorate of the Company received from M/s. H. F. Chapman and C. P. Sivadas were tabled and the resignations were accepted as from this date.
- (b) Proposed by Mr. E. A. P. Edirisinghe and seconded by Mr. C. P. Sivadas it was unanimously resolved that Mr. E. A. Samel Appuhamy be and he is hereby appointed Directors of the Company as from this date.

10

### 2. Transfer of Shares

In terms of Article 6 of the Company's Articles of Association, the Directors having unanimously approved transfers of one share each by Mr. E. A. P. Edirisinghe to Mr. E. A. S. Appuhamy and Mrs. U. Podihamine ~~by Mr. E. A. P. Edirisinghe to Mr. E. A. S. Appuhamy~~, and one share each by Mr. H. F. Chapman to Mr. E. A. Samel Appuhamy and by Mr. C. P. Sivadas to Mrs. U. Podihamine the said transfers are hereby duly ratified and confirmed.

Secretary

Chairman

*\*(The words "were duly ratified and confirmed", have been struck off in ink in the original document.)*  
(The words in italics are in handwriting in ink.)

20

P 10  
Minutes of the  
meeting of the  
Board of  
Directors of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
12. 8. 60

P 10

## MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.

The Minutes of the Meeting of the Board of Directors of Messrs. Jupiter Cigarette & Tobacco Co. Ltd. held at 5 p.m. on Friday the 12th August 1960 at 64, Lauries Road, Colombo.

Present:—

Mr. H. R. Fernando (Chairman)  
Mr. K. Selvanathan  
Dr. H. C. H. Soysa  
Mr. C. P. Sivadas  
Mr. E. A. P. Edirisinghe  
Mr. H. F. Chapman

30

### 1. Transfers

In terms of Article 6 of the Company's Articles of Association it is hereby unanimously resolved that the four transfers, two for one share each by Mr. E. A. P. Edirisinghe to Mr. E. A. S. Appuhamy and Mrs. U. Podihamine

and one by Mr. H. F. Chapman to Mr. Edirisinghe Aratchige Samel Appuhamy for one share and the other by Mr. C. P. Sivadas to Mrs. U. Podihamine for one share be and the same are hereby approved and accepted.

Sgd. H. R. FERNANDO

Sgd. H. F. CHAPMAN

Sgd. H. C. H. SOYSA

Sgd. C. P. SIVADAS

Sgd. K. SELVANATHAN

Sgd. E. A. PREMALAL EDIRISINGHE

P 10  
Minutes of the  
meeting of the  
Board of  
Directors of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.—  
12. 8. 60  
—Continued

10

## P 11

**MINUTES OF THE EXTRAORDINARY GENERAL MEETING  
OF THE SHAREHOLDERS OF THE JUPITER CIGARETTE  
& TOBACCO CO. LTD.**

The Minutes of the Extraordinary General Meeting of the shareholders of Messrs. Jupiter Cigarette & Tobacco Company Ltd. held at 64, Lauries Road, Colombo at 5.30 p.m. on Friday the 12th August 1960.

Present:—

Mr. H. R. Fernando (Chairman)  
Mr. K. Selvanathan  
Dr. H. C. H. Soysa  
Mr. H. C. E. Soysa  
Mr. E. A. P. Edirisinghe  
Mr. C. P. Sivadas  
Mr. H. F. Chapman.

20

Messrs. A. Clive Abeywardene and M. Ranganathan, Proctors were present on invitation.

1. *Directorate*

(a) Letters of resignation from the Directorate of the Company received from Messrs. H. F. Chapman and C. P. Sivadas were tabled and the resignations were accepted as from this date.

30

(b) Proposed by Mr. E. A. P. Edirisinghe and seconded by Mr. C. P. Sivadas it was unanimously resolved that Mr. E. A. Samel Appuhamy be and he is hereby appointed a Director of this Company as from this date.

2. *Transfer of Shares*

In terms of Article 6 of the Company's Articles of Association, the Directors having unanimously approved transfers of one share each by Mr.

P 11  
Minutes of the  
Extraordinary  
General Meeting  
of the sharehol-  
ders of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
12. 8. 60

P 11  
Minutes of the  
Extraordinary  
General Meeting  
of the Sharehol-  
ders of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
12. 8. 60  
—Continued

E. A. P. Edirisinghe to Mr. E. A. Samel Appuhamy and Mrs. U. Podihamine and one share each by Mr. H. F. Chapman to Mr. E. A. Samel Appuhamy and by Mr. C. P. Sivadas to Mrs. U. Podihamine the said transfers are hereby duly ratified and confirmed.

Sgd. K. SELVANATHAN

Sgd. E. A. PREMALAR EDIRISINGHE

Sgd. H. R. FERNANDO

Sgd. H. F. CHAPMAN

Sgd. H. C. H. SOYSA

Sgd. C. P. SIVADAS

10

Sgd. H. C. E. SOYSA

P 5  
Minutes of the  
Extraordinary  
General Meeting  
of the Share-  
holders of the  
Jupiter Cigarette  
& Tobacco Co.,  
Ltd.—12-8-60

## P 5

### MINUTES OF THE EXTRAORDINARY GENERAL MEETING OF THE SHAREHOLDERS OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.

The Minutes of the Extraordinary General Meeting of the Shareholders of Messrs. Jupiter Cigarette & Tobacco Co. Ltd. held on Friday the 12th August 1960 at 6 p.m. at 64, Lauries Road, Colombo.

Present:—

Mr. H. R. Fernando (Chairman)

20

Mr. K. Selvanathan

Dr. H. C. H. Soysa

Mr. H. C. E. Soysa

Mr. E. A. P. Edirisinghe

Mr. C. P. Sivadas

Mr. H. F. Chapman

Mr. E. A. S. Appuhamy

Mrs. U. Podihamine.

Messrs. A. Clive Abeywardene and M. Ranganathan, Proctors were present on invitation.

30

#### 1. Directorate

- (a) Letters of resignation from M/s. H. R. Fernando, K. Selvanathan, Dr. H. C. F. Soysa were tabled and their resignations were accepted as from this date.

- (b) Proposed by Mr. E. A. P. Edirisinghe and seconded by Mr. C.P. Sivadas it was unanimously resolved to appoint Mrs. U. Podihamine a Director of this Company as from this date.

2. *Finance*

For the purpose of the business of the Company, it was decided to raise financial accommodation to the extent of Rupees 125,000/-. Mr. E. A. P. Edirisinghe informed the members that he has negotiated to raise by way of loans from Dr. H. C. H. Soysa of No. 7, Greenlands Avenue, Colombo and from M/s. H. R. Fernando & Co. Ltd. of 64, Lauries Road, Colombo and from M/s. Ceylon Finance & Security Ltd. of Colombo the aforesaid amount on a reasonable interest of 6 1/2 per annum re-payable after three (3) years. The members after due consideration decided to avail of this accommodation and for this purpose the following resolution was unanimously passed, "that this Company shall borrow and receive by way of loans a sum of Rs. 57,000/- from Dr. H. C. H. Soysa, Rs. 21,000/- from M/s. H. R. Fernando & Co. Ltd. and Rs. 47,000/- from M/s. Ceylon Finance and Securities Ltd. aggregating to Rs. 125,000/- on the security of the land and buildings belonging to the Company situate at Lady Catherine Group, Ratmalana with the right title and interest of the Company in the machinery installed in the aforesaid premises on such terms and conditions as to the said Mr. E. A. P. Edirisinghe shall seem expedient in the interest of the Company. It was further unanimously resolved that M/s. E. A. P. Edirisinghe and E. A. S. Appuhamy, two of the Directors of the Company be and they are hereby authorised and empowered to execute under the Seal of the Company duly attesting the same, and deliver all such bonds, deeds and documents as may be required for obtaining the aforesaid loans and securing the same as above.

Sgd. H. F. CHAPMAN

*Thumb impression*

30 This is the left thumb impression of Mr. E. A. S. Appuhamy.

Sgd. H. C. E. SOYSA

Sgd. K. SELVANATHAN

Sgd. E. A. PREMALAR EDIRISINGHE

Sgd. C. P. SIVADAS

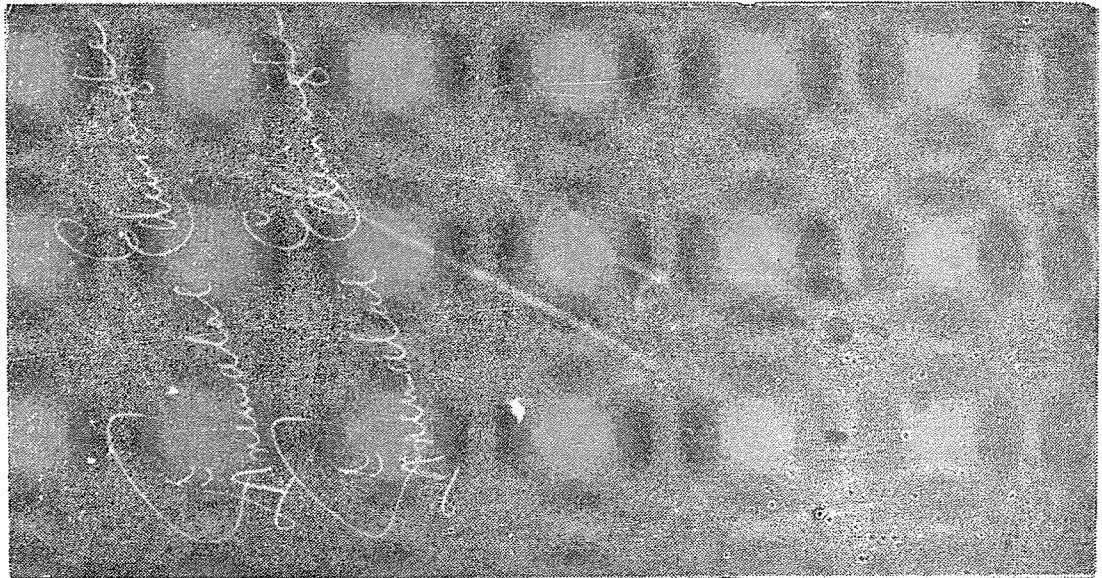
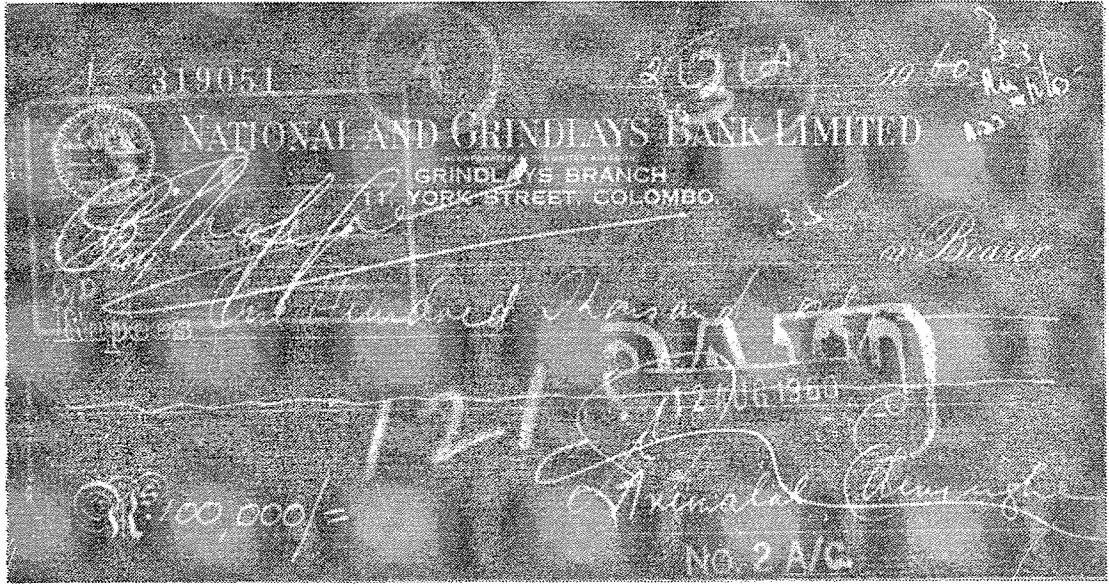
Sgd. H. R. FERNANDO

Sgd. H. C. H. SOYSA



D 53  
National and  
Grindlays Bank  
Cash Cheque for  
Rs. 100,000/-  
12-8-60

**NATIONAL AND GRINDLAYS BANK CASH CHEQUE  
FOR Rs. 100,000/-**



D 33

**TRANSFER OF SHARES BY H. F. CHAPMAN TO  
E. A. P. SAMEL APPUHAMY**

D 33  
Transfer of  
Shares by H. F.  
Chapman to  
E. A. Samel  
Appuhamy—  
12-8-60

Transfer Fee: Rs. 2.50

No. ....

Approved.....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Hector Fredrick Chapman of 153, Templers Road, Mount Lavinia in consideration of the sum of Rupees Eighty Four and Seventy Five cents Rs. 84/75 only paid me by (in block letters please) Edirisinghe Arachige Samel Appuhamy of 1666 Cotta Road, Rajagiriya do hereby transfer to the said Edirisinghe Arachige Samel Appuhamy one share numbered 6 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Samel Appuhamy. Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

20 And I, the said Edirisinghe Arachige Samel Appuhamy do hereby agree to take the said one share subject to the same conditions.

As witness our hands the ~~Thirteenth~~ <sup>Twelfth</sup> day of August One thousand Nine hundred and Sixty.

Witness: Sgd. K. SELVANATHAN

Witness: Sgd. M. RANGANATHAN

Sgd. H. F. CHAPMAN  
*Transferor.*

BRITISH  
*Nationality.*

30

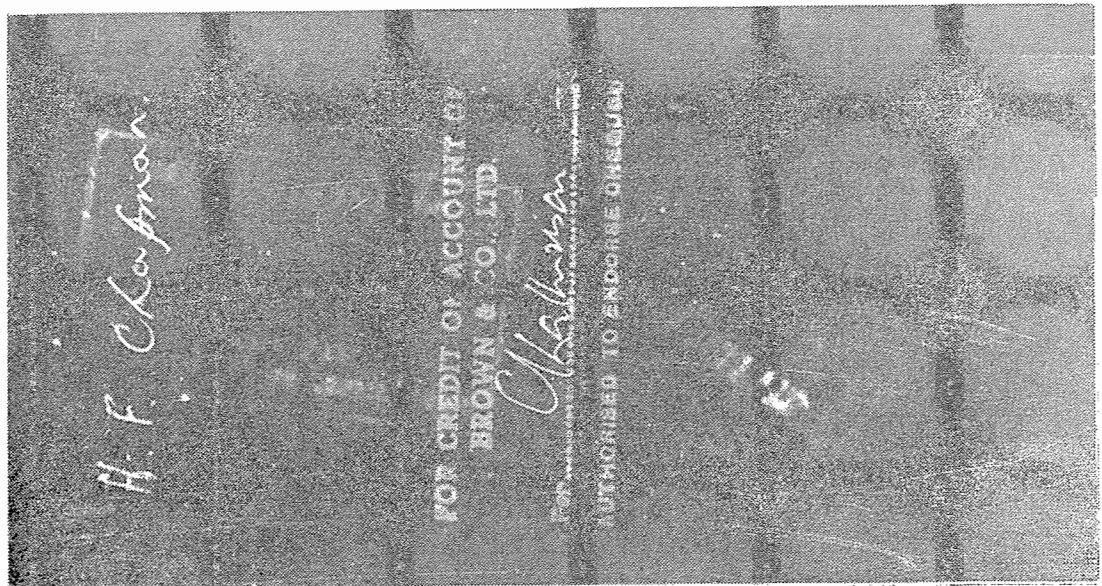
Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

SINHALESE  
*Nationality.*



No. 51  
National and  
Grindlays Bank  
Cheque for Rs.  
84/75 in favour  
of H. F. Chap-  
man—13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 84/75 IN  
FAVOUR OF H. F. CHAPMAN**



**DRAFT MORTGAGE BOND**

TO ALL TO WHOM THESE PRESENTS SHALL COME, EDIRISINGHE ARATCHIGE SAMEL APPUHAMY OF No. 122, Ward Place, Colombo in the Dominion of Ceylon (hereinafter called and referred to as "the Mortgagor" which term or expression as herein used shall where the context so requires or admits mean and include the said Edirisinghe Aratchige Samel Appuhamy his heirs executors administrators and assigns.)

SENDS GREETING :—

10 Whereas the Mortgagor is seized and possessed of or otherwise well and sufficiently entitled to all that land and premises in the Schedule hereto fully described together with the buildings standing thereon.

And Whereas the Mortgagor has borrowed and received a sum of Rupees from HENNEDIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Colombo, aforesaid a sum of Rupees from H. R. FERNANDO AND COMPANY LIMITED a company duly incorporated under the laws of Ceylon and having its registered office at 131, Dam Street, Colombo aforesaid and a sum of Rupees from CEYLON FINANCE AND SECURITIES LIMITED a Company duly incorporated under the laws of  
20 Ceylon and having its registered office at No. 282, Grandpass Road, Colombo aforesaid aggregating to a total sum of Rupees . on the security of the land and premises in the Schedule hereto fully described with the buildings thereon.

NOW KNOW ALL MEN BY THESE PRESENTS that the Mortgagor is held and firmly bound unto the said HENNEDIGE CHARLES HENRY SOYSA his heirs executors administrators and assigns in the sum of Rupees unto the said H. R. FERNANDO AND COMPANY LIMITED its successor or successors and assigns in the sum of Rupees  
30 and unto the said CEYLON FINANCE AND SECURITIES LIMITED its successor or successors and assigns in the sum of Rupees all lawful money of Ceylon which the Mortgagor has at the time of the execution of these presents borrowed and received from the Mortgagees respectively and the Mortgagor doth hereby agree and bind himself to pay on demand to the said HENNEDIGE CHARLES HENRY SOYSA his heirs executors administrators and assigns the said sum of Rupees to the said H. R. FERNANDO AND COMPANY LIMITED its successor or successors and assigns the said sum  
40 of Rupees and to the said CEYLON FINANCE AND SECURITIES LIMITED its successor or successors and assigns the said sum of Rupees (which said HENNEDIGE CHARLES HENRY SOYSA, H. R. FERNANDO AND COMPANY

D 2  
Draft  
Mortgage Bond  
—Continued

LIMITED and CEYLON FINANCE AND SECURITIES LIMITED are hereinafter called and referred to as “the Mortgagees” which term and expression as herein used shall where the context so requires or admits mean and include the said HENNEDIGE CHARLES HENRY SOYSA his heirs executors administrators and assigns the said H. R. Fernando and Company Limited its successor or successors and assigns and the said CEYLON FINANCE AND SECURITIES LIMITED its successor or successors and assigns and in the meanwhile pay interest thereon at the rate of Ten (10) per centum per annum to each of the aforesaid on their respective sums monthly / (annually *in ink*) at Colombo on the \_\_\_\_\_ day of each and every month <sup>10</sup> the first of such payments of interest to be computed from the date hereto and to be made on the day of \_\_\_\_\_ 1960.

PROVIDED however and it is hereby agreed that its interest shall be paid regularly and punctually on the due dates as aforesaid then it shall be lawful for the Mortgagor to pay interest at the reduced rate of Seven (7) per centum per annum for and in lieu of the aforesaid rate of Ten (10) per centum per annum.

AND for further securing to the Mortgagees respectively the payment of all sums of money payable under by virtue or in respect of these presents the Mortgagor doth hereby 20

*FIRSTLY* specially mortgage and hypothecate to and with the Mortgagees as a primary mortgage free from all encumbrances all that land and premises in the Schedule hereto fully described together with the buildings presently standing thereon and which may hereafter be erected thereon and all improvements thereto and all rights ways privileges servitudes easements and appurtenances whatsoever thereto belonging or reputed or known as part and parcel thereof and all the estate right title interest property claim and demand whatsoever of the Mortgagor in to out of or upon the same or any part or portion thereof and the Mortgagor doth herewith deposit with the Mortgagees the title deeds of the said land and premises to wit Deed <sup>30</sup> No. 3826 dated 14th August 1957 attested by A. C. Abeywardena, Colombo, Notary Public and connected deeds and plans.

*SECONDLY* cede assign set over and assure unto the Mortgagees by way of primary mortgage and hypothecation free from seizure charge lien or any other encumbrances all and every the contracts and contract insurance if any already affected or which may hereafter from time to time be effected in respect of the buildings that now stand or that may hereafter be erected on the land and premises in the Schedule hereto fully described and all sums of money which may be recoverable under the said insurance or insurances and all the estate right title interest property and claim and demand whatsoever <sup>40</sup> of the Mortgagor in to out of or upon the same.

(Which land and premises in the Schedule hereto fully described with the buildings now standing or hereafter to be erected thereon and all the rents profits and other income and the insurances and other properties described secondly above and hereby mortgaged and hypothecated are hereinafter are collectively called and referred to as “the said Mortgaged premises”).

PROVIDED that the mortgage and hypothecation hereby created shall be taken to be concurrent and that in the event of the securities being realised and the proceeds of such realisation not being sufficient to satisfy the respective claims charges and expenses of the Mortgagees, the Mortgagees shall be entitled to claim *pro-rata* only on such proceeds in proportion to the amounts of their respective claims.

D 2  
Draft  
Mortgage Bond  
—Continued

And the Mortgagor doth hereby covenant and agree with the Mortgagees.

(a) that the Mortgagor has good and legal right and full power and authority to mortgage hypothecate and assign the said mortgaged premises  
10 in manner aforesaid and that the same are not subject to any lien seizure charge encumbrance or claim and that it and its aforewritten shall and will request of the Mortgagees but at the cost and expense of the Mortgagor do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things for the more perfectly and effectually assuring to the Mortgagees by way of Mortgage and hypothecation the said mortgaged premises and every part or portion thereof as by the Mortgagees shall or may be reasonably required and shall and will warrant and defend title to the said mortgaged premises against all persons whomsoever.

(b) that the Mortgagor shall and will during the continuance of the  
20 mortgage and hypothecation effected by these presents well and substantially keep and maintain the mortgaged premises in good and proper order and condition duly cared for and well and substantially repair the buildings and keep the same in good and proper repair and condition and shall and will suffer and permit the Mortgagees or any person or persons duly authorised by the Mortgagees or any one of the Mortgagees or any one of them at any time and from time to time hereafter to visit inspect and value at the cost and expense of the Mortgagor the said mortgaged premises and every part or portion thereof at all hours during the day.

(c) that the Mortgagor shall and will regularly and punctually pay all  
30 rates taxes assessments charges premia duties levies impositions outgoings and expenses whatsoever whether under any written law for the time being in force or otherwise in respect of the said mortgaged premises and procure official receipts therefor and shall and will deliver in to the Mortgagees the said Official receipts or any other documents relative to or as proof of any such payments aforesaid on demand.

(d) that the Mortgagor shall and will at all times during the continuance of the mortgage and hypothecation effected by these presents insure and keep insured in the joint names of the Mortgagor as owner and the Mortgagees as  
40 such Mortgagees against loss or damage by fire lightning and such other risks and contingencies (if any) as the Mortgagees may from time to time require the buildings now standing and/or hereafter to be erected on the said mortgaged premises to the full insurable value thereof in some insurance office or offices of good standing carrying on business in Colombo and to be approved

D 2  
Draft  
Mortgage Bond  
—Continued

of by the Mortgagees and shall and will regularly and punctually pay all and every the premia and premium or sums of money for the time being necessary for keeping on foot the policy or policies of such insurance and deliver to the Mortgagees the said policy or policies and the receipts for the premia payable as aforesaid and in case the buildings standing on the said mortgaged premises or any part or portion thereof shall be burnt down destroyed or damages by fire lightning or other cause or contingency insured against then and in any such case and as after as the same shall happen pay to the Mortgagees all such sums or sum of money as shall be received or be recoverable by virtue of any such insurance or insurances as aforesaid and/or the same shall at the option of the Mortgagees be laid out and expended in re-building reinstating or repairing the buildings standing on the said mortgaged premises or such part or portion thereof as shall be burnt down destroyed or damaged by fire lightning or other cause or contingency as aforesaid or be applied protanto in or towards the repayment of the moneys then due by the Mortgagor to the Mortgagees under these presents. 10

(e) that the Mortgagor shall and will always and at all times hereafter during the continuance of these presents duly and punctually pay all sums due to the Crown in Ceylon by the Mortgagor under any law for the time being in force relating to income tax profits tax or any other tax whatsoever or interests penalties or impositions and all debts of whatsoever kind or nature due to the Crown in Ceylon and if and when required so to do will forthwith deliver to the Mortgagees the relative notice of assessment and official receipts for payments of tax penalties interest impositions and debts as may from time to time be issued by the appropriate departments of the Government of this Island, and 20

(f) that the Mortgagor shall not and will not suffer or permit the mortgaged premises or any part or portion thereof or the rents or profits thereof to be seized or taken in execution of any judgment or judgments against the Mortgagor under or in respect of any other claim or claims or proceedings and shall not and will not during the continuance of the mortgage and hypothecation hereby created and so long as any monies are due to the Mortgagees under these presents or under any decree to be entered in any actions instituted on these presents or under any decree to be entered in any action instituted on these presents donate sell lease or otherwise howsoever alienate encumber or dispose of or deal with the mortgaged premises or any of them or any part or portions thereof except with the previous consent in writing of the Mortgagees and any such mortgage lease or other alienation encumbrance or disposition of or dealing with the said mortgaged premises or any part or portion thereof without such previous written consent shall be null and void as against the Mortgagees and shall and will if and when a sale of the mortgaged premises or any of them or any part or portions thereof is effected with such previous consent in writing as aforesaid pay the net proceeds of such sale to the Mortgagees to be applied in reduction of all monies due under these presents. 30 40





P 1  
Mortgage Bond  
No. 432, attested  
by M. Ranganathan,  
Notary Public—  
13-8-60

P 1

**MORTGAGE BOND NO. 432 ATTESTED BY M. RANGANATHAN,  
NOTARY PUBLIC**

M. Ranganathan  
Notary Public,  
Colombo.

Regd. M635 & MW 45  
179 392

Colombo, 22 Aug. 1960. Sgd: R. L.

10

PRIOR REGISTRATION: IMMOVABLE Colombo M 635/179  
: Movables.

No. 432

TO ALL TO WHOM THESE PRESENTS SHALL COME, THE JUPITER CIGARETTE AND TOBACCO COMPANY LIMITED a Company duly incorporated in Ceylon under the Companies Ordinance No. 51 of 1938 and having its Registered Office at Lady Catherine Group, Ratmalana" in the Dominion of Ceylon (hereinafter called and referred to as "the Mortgagor which term or expression as herein used shall where the context so requires or admits mean and include the said Jupiter Cigarette and Tobacco Company 20 Limited and its successor or successors).

## SENDS GREETING:—

WHEREAS the Mortgagor is seized and possessed of or otherwise well and sufficiently entitled to all that allotment of land in the first Schedule hereto fully described together with the buildings thereon and the machinery equipment and fixtures in the said buildings and on the said land found as per details set out in the Second Schedule hereto.

AND WHEREAS the Mortgagor at a meeting of its members held on the Twelfth day of August 1960 has duly resolved to borrow and receive a sum of Rupees Fiftyseven Thousand (Rs. 57,000/-) from DOCTOR HENNE- 30 DIGE CHARLES HENRY SOYSA of No. 7, Greenlands Avenue, Havelock Town, Colombo in the said Dominion, a sum of Rupees Twentyone Thousand (Rs. 21,000/-) from H. R. FERNANDO AND COMPANY LIMITED a company duly incorporated under the laws of Ceylon and having its registered office at 64, Lauries Road, Colombo aforesaid and a sum of Rupees Fortyseven Thousand (Rs. 47,000/-) from CEYLON FINANCE AND SECURITIES LIMITED, a Company duly incorporated under the laws of Ceylon and having its Registered Office at No. 282, Grandpass Road, Grandpass in Colombo aforesaid aggregating to a total sum of Rupees One Hundred and Twenty Five Thousand (Rs. 125,000/-) on the security *inter alia* of the land and 40 premises in the First Schedule hereto described with the buildings thereon and the machinery equipment and fixtures in the Second Schedule hereto described.

NOW KNOW ALL MEN BY THESE PRESENTS that the Mortgagor is held and firmly bound unto the said DOCTOR HENNEDIGE CHARLES HENRY SOYSA his heirs executors administrators and assigns in the said sum of Rupees Fiftyseven Thousand (57,000/-) unto the said H. R. Fernando and Company limited its successor or successors and assigns in the said sum of Rupees Twentyone Thousand (Rs. 21,000/-) and unto the said CEYLON FINANCE AND SECURITIES LIMITED its successor or successors and assigns in the said sum of Rupees Fortyseven Thousand (Rs. 47,000/-) aggregating to the said total sum of Rupees One Hundred and Twenty Five Thousand  
 10 (Rs. 125,000/-) all lawful money of Ceylon which the Mortgagor has at the time of the execution of these presents borrowed and received from the said DOCTOR HENNEDIGE CHARLES HENRY SOYSA, H. R. FERNANDO AND COMPANY LIMITED and CEYLON FINANCE AND SECURITIES LIMITED respectively and the Mortgagor doth hereby agree and bind itself to pay on demand which demand shall however not be made till after a period of three years from date hereof to the said DOCTOR HENNEDIGE CHARLES HENRY SOYSA his heirs executors administrators and assigns the said sum of Rupees Fiftyseven Thousand (Rs. 57,000/-) to the said H. R. FERNANDO AND COMPANY LIMITED  
 20 its successor or successors and assigns the said sum of Rupees Twentyone Thousand (Rs. 21,000/-) and to the said CEYLON FINANCE AND SECURITIES LIMITED its successor or successors and assigns the said sum of Rupees Fortyseven Thousand (Rs. 47,000/-) aggregating to the said total sum of Rupees One Hundred and Twenty Five Thousand (Rs. 125,000/-) (which said DOCTOR HENNEDIGE CHARLES HENRY SOYSA, H. R. FERNANDO AND COMPANY LIMITED and CEYLON FINANCE AND SECURITIES LIMITED are hereinafter called and referred to as the Mortgagees which term or expression as herein used shall where the context so requires or admits mean and include the said DOCTOR HENNEDIGE  
 30 CHARLES HENRY SOYSA his heirs executors administrators and assigns the said H. R. FERNANDO AND COMPANY LIMITED its successor or successors and assigns and the said CEYLON FINANCE AND SECURITIES LIMITED its successor or successors and assigns) and in the meanwhile pay interest thereon at the rate of Ten (10) per centum per annum to each of the aforesaid on the respective sum borrowed from each of them monthly at Colombo on the Thirteenth day of each and every month the first of such payments of interest to be made on the Thirteenth day of September 1960.

Provided however and it is hereby agreed that if interest shall be paid by the Mortgagor without three consecutive defaults on the dates aforesaid then  
 40 it shall be lawful for the Mortgagor to pay interest at the reduced rate of Six and a half (6 1/2) per centum per annum for and in lieu of the aforesaid rate of ten per centum per annum.

And for further securing to the Mortgagees respectively the payment of all sums of money payable under by virtue or in respect of these presents the Mortgagor doth hereby

*FIRSTLY* specially mortgage and hypothecate to and with the Mortgagees as a primary mortgage free from all encumbrances all that land and premises in the First Schedule hereto fully described together with the buildings presently

P 1  
 Mortgage Bond  
 No. 432, attested  
 by M. Ranganathan,  
 Notary Public—  
 13-8-60  
 —Continued



P 1  
Mortgage Bond  
No. 432, attested  
by M. Ranganathan,  
Notary Public—  
13-8-60  
—Continued

standing thereon and which may hereafter be erected thereon and all improvements thereto and all rights ways privileges servitudes easements and appurtenances whatsoever thereto belonging or reputed or known as part and parcel thereof and all the estate right title interest property claim and demand whatsoever of the Mortgagor in to out of or upon the same or any part or portion thereof and the Mortgagor doth herewith deposit with the Mortgagees the title deeds of the said land and premises to wit: Deed No. 2435 dated 8th March 1958 attested by D. F. de Silva Colombo Notary Public.

*SECONDLY* specially mortgage and hypothecate to and with the Mortgagees all that and those the estate right title interest property and claim 10 presently vesting in and/or which shall or may hereafter vest in and accrue to the Mortgagor in and to the machinery equipment and fixtures in the aforesaid buildings and on the land and premises presently installed which are in the Second Schedule hereto fully described and/or those which may hereafter therein be installed.

*THIRDLY* cede assign set over and assure unto the Mortgagees by way of primary mortgage and hypothecation free from seizure charge lien or any other encumbrances all the rents and profits or other income or return whatsoever of or accruing from the said land machinery and premises and all and every the contracts and contract of insurance if any already effected or which 20 may hereafter from time to time be effected in respect of the land and buildings that now stand or hereafter may be erected on the land in the First Schedule hereto fully described and the machinery equipment and fixtures in the Second Schedule hereto described and such other machinery or fixtures that may be from time to time therein installed and all sums of money which may be recoverable under the said insurances and all the estate right title interest property claim and demand whatsoever of the Mortgagor in to out of or upon the same.

(Which land and premises in the First Schedule hereto fully described with the buildings now standing or hereafter to be erected thereon and the machinery 30 equipment and fixtures in the Second Schedule hereto described and/or to be hereafter thereto added and all the rents profits and other income and the insurances and other properties described thirdly above and hereby mortgaged and hypothecated are hereinafter collectively called and referred to as "the said Mortgaged premises")

Provided

Sgd. E. A. PREMALAR EDIRISINGHE  
*Director.*

*(Thumb impression)*

This is the left thumb impression of 40  
Edirisinghe Arachige Samel Appuhamy.  
*Director.*

Sgd. M. RANGANATHAN  
*Notary Public.*

(Seal)

Provided that the Mortgage and hypothecation hereby created shall be taken to be concurrent and that in the event of the securities being realised and the proceeds of such realisation not being sufficient to satisfy the respective claims charges and expenses of the Mortgagees, the Mortgagees shall be entitled to claim *pro-rata* only on such proceeds in proportion to the amounts of their respective claims.

P 1  
Mortgage Bond  
No. 432, attested  
by M. Ranga-  
nathan, Notary  
Public—  
13-8-60  
—Continued

And the Mortgagor doth hereby covenant and agree with the Mortgagees,

(a) that the Mortgagor has good and legal right and full power and authority to mortgage hypothecate and assign the said mortgaged premises  
10 in manner aforesaid and that the same are not subject to any lien seizure charge encumbrance or claim and that it and its aforewritten shall and will at the request of the Mortgagees but at the cost and expense of the Mortgagor do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things for the more perfectly and effectually assuring to the Mortgagees by way of mortgage and hypothecation the said mortgaged premises and every part or portion thereof as by the Mortgagees shall or may be reasonably required and shall and will warrant and defend title to the said mortgaged premises against all persons whomsoever.

(b) that the Mortgagor shall and will during the continuance of the  
20 mortgage and hypothecation effected by these presents well and substantially keep and maintain the mortgaged premises in good and proper order and condition duly cared for and well and substantially repair the buildings and keep the same in good and proper repair and condition and shall and will suffer and permit the Mortgagees or any person or persons duly authorised by the Mortgagees or any one of the Mortgagees or any one of them at any time and from time to time hereafter to visit inspect and value the said mortgaged premises and every part or portion thereof at all hours during the day.

(c) that the Mortgagor shall and will regularly and punctually pay all  
30 rates taxes assessments charges premia duties levies impositions outgoings and expenses whatsoever whether under any written law for the time being in force or otherwise in respect of the said mortgaged premises and procure official receipts therefor and shall and will deliver to the Mortgagees the said Official receipts or any other documents relative to or as proof of any such payments aforesaid on demand.

(d) that the Mortgagor shall and will at all times during the continuance of the mortgage and hypothecation effected by these presents insure and keep insured in the joint names of the Mortgagor as owner and the mortgagees as such Mortgagees against loss or damage by fire lightning and such other risks  
40 and contingencies (if any) as the Mortgagees may from time to time require the buildings now standing and/or hereafter to be erected on the said mortgaged premises with all the machinery therein to the full insurable value thereof in some insurance office or offices of good standing carrying on business in Colombo and to be approved of by the Mortgagees and shall and will regularly and punctually pay all and every the premia and premium or sums of money for the time being necessary for keeping on foot the policy or policies of such

P 1  
Mortgage Bond  
No. 432, attested  
by M. Ranga-  
nathan, Notary  
Public—  
13-8-60  
—Continued

insurance and deliver to the Mortgagees the said policy or policies and the receipts for the premia payable as aforesaid and in case the said mortgaged premises or any part or portion thereof shall be burnt down destroyed or damaged by fire lightning or other cause or contingency insured against then and in any such case and as often as the same shall happen pay to the Mortgagees all such sums or sum of money as shall be received or be recoverable by virtue of any such insurance or insurances as aforesaid and/or the same shall at the option of the Mortgagees be laid out and expended in re-building reinstating or repairing the buildings and the machinery standing on the said mortgaged premises or such part or portion thereof as shall be burnt down destroyed or damaged by fire lightning or other causes or contingency as aforesaid or be applied *protanto* in or towards their payment of the moneys then due by the Mortgagor to the Mortgagees under these presents. 10

(e) that the Mortgagor shall and will always and at all times hereafter during the continuance of these presents duly and punctually pay all sums due to the Crown in Ceylon by the Mortgagor under any law for the time being in force relating to income tax profits tax or any other tax whatsoever or interests penalties or impositions and all debts of whatsoever kind or nature due to the Crown in Ceylon and if and when required so to do will forthwith deliver to the Mortgagees the relative notice of assessment and official receipts 20 for payments of tax penalties interest impositions and debts as may from time to time be issued by the appropriate departments of the Government of this Island, and

(f) that the Mortgagor shall and will not suffer or permit the mortgaged premises or any part or portion thereof or the rents or profits thereof to be seized or taken in execution of any judgment or judgments against the Mortgagor under or in respect of any other claim or claims or proceedings and shall not and will not during the continuance of the mortgage and hypothecation hereby created and so long as any monies are due to the Mortgagees under these presents or under any decree to be entered in any actions instituted 30 on these presents or under any decree to be entered in any action instituted on these presents donate sell lease or othersiwe howsoever alienate encumber or dispose of or deal with the mortgaged premises or any of them or any part or portion thereof except with the previous consent in writing of the Mortgagees and any such sale mortgage lease or other alienation encumbrance or disposition of or dealing with the said mortgaged premises or any part or portion thereof without such previous written consent shall be null and void as against the Mortgagees and shall and will if and when a sale of the said mortgaged premises or any of them or any part or portion thereof is effected with such previous consent in writing as aforesaid pay the net proceeds of such sale to the 40 mortgagees to be applied in reduction of all monies due under these presents.

AND IT IS EXPRESSLY AGREED and declared as follows:—

(a) that if the Mortgagor shall make three consecutive defaults in the payment of interest on the due dates as provided herein or commit any breach of any of the other covenants hereinbefore contained and on the part of the Mortgagor to be observed and performed of if the Mortgagor shall at any time during the continuance of the mortgage and hypothecation effected by these

presents pass a resolution for winding up or steps are taken against the Mortgagor to be wound up or enters into a composition with its creditors then and in any such case it shall be lawful for the Mortgagees or any one of them or any persons duly authorised by them to enter upon and take possession of the said mortgaged premises and every part or portion thereof with full power to let lease sell and dispose of same or any part or portion thereof and to take and apply the rents profits income and sale proceeds thereof until the whole of the moneys due under or secured by these presents and all expenses and costs of such possession lease or sale or in any way incidental thereto and the cost of  
 10 all upkeep and maintenance of the said mortgaged premises (all of which costs and expenses shall be charged specially upon the mortgaged premises and be covered by the mortgage and hypothecation hereby given and granted or intended so to be) have been fully paid and liquidated or at once to sue the Mortgagor for the recovery of all moneys due under these presents and to obtain a hypothecary decree in respect of the said mortgaged premises against the Mortgagor or if the Mortgagees shall think fit so to do also at any time adopt both the above remedies simultaneously or successively for recovering payment of the said moneys.

(b) that all moneys including costs expenses and charges by or payable  
 20 under these presents shall be payable on demand which demand shall however not be made within three years from the date of this bond notwithstanding any rule or law or equity to the contrary.

(Seal)

Sgd. E. A. PREMALAL EDIRISINGHE  
 Director.

*(Thumb impression)*

This is the left thumb impression of  
 Edirisinghe Arachige Samel Appuhamy,  
 Director.

Sgd. M. RANGANATHAN.  
 Notary Public.

30

(c) that the Mortgagor shall and will not at any time during the continuance of these presents apply for or seek any relief under the debt Conciliation Ordinance or any law or statute and the Mortgagor doth hereby expressly waive all rights that it may have under the provisions of any law.

(d) that the security hereby created shall continue to be valid binding and effectual for all purposes as provided herein notwithstanding any charges or amalgamation consolidation or otherwise which may be made in the constitution of the second and third Mortgagees or any of them.

(e) that every demand under these presents may be effectually made  
 40 verbally or by notice in writing and every such notice summons or any legal process of any kind whatsoever in connection with any action suit or any other proceedings taken under these presents shall be taken and be deemed to

P 1  
Mortgage Bond  
No. 432, attested  
by M. Ranga-  
nathan, Notary  
Public—  
13-8-60  
—Continued

have been duly served on the Mortgagor if the same be sent by post under Registered Cover addressed to the Mortgagor to its registered address or if affixed to any of the buildings standing on the mortgaged premises.

IN WITNESS WHEREOF the said JUPITER CIGARETTE AND TOBACCO COMPANY LIMITED hath caused its Common Seal to be affixed in the presence of two of its Directors hereinbelow named hereunto and to three others of the same tenor and date at Colombo on this Thirteenth day of August One Thousand Nine Hundred and Sixty.

### THE FIRST SCHEDULE ABOVE REFERRED TO

All that allotment of land being a divided and defined portion from and out 10 of the land called Lady Catherine Group situated in the village of Telawela in Palle Pattu of Salpiti Korale in the District of Colombo Western Province and bounded on the North-East by the remaining portion of the same land on the South-East by estate road, on the South-West by part of the same land belonging to Glaxo Laboratories (Ceylon) Limited and on the North-West by the remaining part of the same land containing in extent One Acre (A1. R0. P0.) according to Plan No. 296 dated 10th August 1957 made by K. M. Samarasinghe Licensed Surveyor.

### THE SECOND SCHEDULE ABOVE REFERRED TO

	<i>Qty.</i>	£	20
<b>HIGH SPEED TOBACCO CUTTING MACHINE</b>			
<b>"SKODA" R 6 A</b> .. .. .	1	2,200/-	
Production No. 52025 — equipped with:			
1 Electric motor 440/220V			
1 Tobacco knife			
4 knife holders			
Set of spare parts.			
<b>TOBACCO ROASTER LP-1</b> .. .. .	1	1,538/-	
Production No. 13145 — equipped with:			
2 Oil burners			30
2 Exhausters			
4 Electric motors			
1 Compressor			
Piping			
<b>TOBACCO COOLER LX-1</b> .. .. .	1	891/-	
equipped with			
1 Exhauster			
2 Electric motors			
Piping			

	<i>Qty.</i>	<b>£</b>	
<b>CIGARETTE MAKING MACHINE "SKODA" C 6</b>	1	5,350/-	P 1 Mortgage Bond No. 432, attested by M. Ranga- nathan, Notary Public— 13-8-60 —Continued
Production No. 56375 equipped with:			
3 Electric motors			
Pickfront device			
Second printing device			
10      Dust exhausting device			
Set of spare parts			
Bronzing device			
 <b>CIGARETTE PACKING MACHINE "ROSE-RU"</b>	 1	 5,093/-	
Production No. 23758 equipped with:			
Electric motor drive			
Loose front foil unit			
Set of spare parts			
 <b>CELLOPHANE WRAPPING MACHINE "ROSE-NLG" 1</b>		 2,595/-	
Production No. 23757 equipped with:			
20      Electric motor drive			
Strip attachment			
Set of spare parts			
 <b>BOILER TYPE "VESUV"</b>	 1	 900/-	
For full Diesel Oil fuel—equipped with:			
1 Water gauge			
1 Pressure gauge			
1 Filling Tap			
1 Overpressure Appliance			
1 Holder of Burner			
30      1 Burner PLB 1/2			
1 Rotary Compressor MR 70-D			
Piping for burnt gases			
Air supply piping			
Oil supply piping			
Oil reservoir			
1 Electric motor			
1 Ventilator with piping			
 <b>GRINDING MACHINE FOR TOBACCO CUTTING KNIVES "SKODA" BTK 450 (SECOND HAND)</b>	 1	 500/-	
40      Production No. 940 equipped with:			
1 Electric motor			
1 Grinding Wheel			
 <b>Total C. I. F. Colombo</b>	 <b>£</b>	 <b>19,067/-</b>	

P 1 Mortgage Bond No. 432, attested by M. Ranganathan, Notary Public— 13-8-60 —Continued	Equivalent - Rs.            ..            ..            .. & Interest            ..            ..            .. & Duty            ..            ..            .. & Clearing & handling charges            ..            ..	254,163.11 7,171.00 31,770.39 12,066.50 <hr style="width: 100%;"/> 305,171.00 <hr style="width: 100%;"/>
Total Value of Machinery Rs.            ..            ..		305,171.00

The Common Seal of Jupiter Cigarette and Tobacco Company Limited was affixed hereunto in the presence of Edirisinghe Arachige Premlal Edirisinghe and Edirisinghe Arachige Samel Appuhamy two of its Directors.....  
 who do hereby attest the Sealing thereof.....

(Seal) 10

Sgd. E. A. PREMIAL EDIRISINGHE  
*Director.*

Witnesses:—

1. Sgd. C. P. SIVADAS
2. Sgd K. SELVANATHAN

(Thumb impression)

This is the left thumb impression of Edirisinghe Arachige Samel Appuhamy.

*Director.*

Sgd. M. RANGANATHAN  
*Notary public.*

I, Muthucumaran Ranganathan of Colombo in the Dominion of Ceylon Notary Public do hereby certify and attest that the foregoing instrument having been duly read over explained by me the said Notary to Edirisinghe Arachige Premlal Edirisinghe and Edirisinghe Arachige Samel Appuhamy, 30 the first of whom has signed this deed in English as "E. A. P. Edirisinghe" and the latter of whom has set his left thumb impression, who are known to me and who are two of the Directors of the said Jupiter Cigarette and Tobacco Company Limited the executants within-named the Common Seal of the said Company was thereto affixed in the presence of the said two Directors who have attested the same and in the presence of Chathampalli Poovadan Sivadas of 22, Mount Pleasant, Baseline Road, Colombo and Kanapathy Chetty Selvanathan of 282, Grandpass Road, Colombo, both of whom have signed as "C. P. Sivadas" and "K. Selvanathan" respectively the subscribing witnesses thereto and who are also known to me the same was signed 40

as aforesaid by the said Two Directors by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this Thirteenth day of August One Thousand Nine Hundred and Sixty.

P 1  
Mortgage Bond  
No. 432, attested  
by M. Ranganathan, Notary  
Public—  
13-8-60  
—Continued

And I further certify and attest that the consideration of Rs. 125,000/- was paid as follows in my presence:-

By Bank of Ceylon City Office Cheque No. B/5 166383 dated 13-8-1960 drawn in favour of the Mortgagor by Dr. H. C. H. Soysa for .. .. .	Rs.	57,000.00
10 By Bank of Ceylon Foreign Department Cheque No. C/2 927314 dated 13-8-1960 drawn in favour of the Mortgagor by H. R. Fernando & Co. Ltd. for .. .. .	Rs.	21,000.00
By Bank of Ceylon City Office cheque No. D/8 249535 dated 13-8-1960 drawn in favour of the Mortgagor by Ceylon Finance & Securities Ltd., for Rs. .. .. .	Rs.	47,000.00
	Rs. ..	<u>125,000.00</u>

And that in all the four copies of the deed on page 1 in line 22 the word "CEYLON" was deleted, same page in line 23 the words and figures "64, Lauries Road" were typed over erasures on page 3 in line 35 the word "and" was interpolated, on page 6 in lines 10 and 26 the words "with all the machinery there" in "and the machinery" respectively were interpolated and in the First Original on page 3 in line 12 the word "September" was typed over erasures and in the Second Original serial number "432" was typed over erasures and in the second Original serial number "432" was typed over erasures, before the foregoing instrument was so read over and explained as aforesaid and that the Duplicate hereof bears three stamps to the value of Rs. 1006/- and two originals one stamp of Re. 1/- each and that the said stamps were supplied by me the said Notary.

30 Date of attestation }  
13th August 1960. }

Which I attest,

M. RANGANATHAN.  
Notary Public

Seal

Prior Registration  
No.

"B"

**CONDITIONS OF SALE**

Upon which Stephen Vincent Perera Jayakody, Licensed Auctioneer of Colombo and by virtue of a commission issued to me in Case No. of the District Court of Colombo, will put up for sale by Public Auction at 40 at on the day of after

Conditions of  
Sale marked "B"  
filed with the  
Plaint



Conditions of  
Sale marked "B"  
filed with the  
Plaint  
—Continued

previous advertisement the usual beat of basin the property hereinafter mentioned, for the recovery of a sum of Rs. together with interest on Rs. at per centum per annum from to and thereafter on the aggregate amount at per centum per annum till payment in full and taxed costs of suit Rs.

1. The property or properties will be put up for sale first at the appraised value fixed by me or by the Court, and if there be no bidders then at the amount of the claim and cost due under the decree and in the event of there being no bidders at such sale also, then immediately thereafter the property shall be put up for sale to the highest bidder. 10

2. Every person making a bid at this sale shall be bound by these conditions of sale whether or not he or she signs an agreement to be bound thereby.

3. The highest bidder shall become the purchaser and, in the event of any dispute between two or more bidders as to their bid, the decision of the auctioneer shall be final and the sale be proceeded with.

4. Bids of less than Rupees will not be accepted and no bidding shall be retracted.

5. The purchaser shall immediately after the sale pay the full amount of purchase money where the same does not exceed one hundred rupees, and where it exceeds the sum the purchaser shall pay one tenth of the purchase amount to the auctioneer. 20

6. The purchaser shall also at the same time pay to the Auctioneer his Commission on the purchase amount as per scale of charges allowed by Court, all advertisement and other charges and also the Notary's fees and value of stamps for conditions of sale the cost of drawing conditions and the clerk's fees.

7. Where the purchase amount exceeds one hundred rupees the purchaser shall furnish two good and sufficient sureties if required by the Auctioneer who shall sign an agreement with him for payment into Court of the balance purchase money on or before the thirtieth day of sale and should this day happen to be a public holiday or Sunday then on the working day next following. 30

8. In default of payment of the balance purchase money in manner mentioned in Class 7 herein, the amount of deposit shall be forfeited and such deposit shall be applied in reduction of the claim of the Judgment creditor, and the property shall be re-sold at the risk for the purchaser and of his sureties, who shall forfeit all claim, benefit, and advantage in respect of such subsequent sale of the property, and shall not be entitled to any advantage arising at such re-sale but shall be liable in respect of any deficiency between the earlier sale and the subsequent sale. 40

9. The re-sale contemplated in clause 8 herein shall take place upon fresh advertisement as provided for the first sale, and in the same manner and subject to the same conditions as the first sale.

10. Should the highest bidder, being declared the purchaser fail immediately to pay the required amount and furnish satisfactory sureties for the payment of the balance then the next highest bidder may be declared the purchaser and be called upon to pay the required amount and furnish sureties as aforesaid, and in the same manner the other bidders in turn and each person failing to make such payment and furnish sureties as aforesaid shall be bound to pay the difference between the amount of his bid and the sum finally settled at the sale. The Auctioneer may however, in the event of default of the highest bidder, instead of declaring the next highest bidder the purchaser, immediately  
10 put up the property for sale afresh, or postpone the sale in which latter event the property shall again be advertised as previously.

11. If the price for which the property is finally sold at the second or any subsequent sale is not less than at the first sale, then the money deposited by the purchaser at the first and other sales, which preceded the final sale, shall be paid to the execution creditor in satisfaction *protanto* of the judgment, and in the event of such judgment being so satisfied and any surplus remaining such surplus shall after deducting any expenses consequent on the sale, be paid to the judgment debtor.

12. The difference between the bidding of any person failing to make a  
20 payment and furnish sureties as mentioned in 5, 6 and 7 clauses and the amount finally settled at the sale and also the difference between the amount of the final sale and the amount of previous sale shall be added to the final sale.

13. The Auctioneer does not warrant and defend this sale.

14. The Auctioneer has the right to reject the bid of any person without assigning any reason therefor and he shall continue the sale as if no such bid has been made.

15. The purchaser shall pay the cost of preparing a plan or figure of survey of the premises sold and of the transfer in his favour.

16. The purchaser shall deposit the amount of poundage at the rate of  
30 six cents on every five rupees or part thereof on the value of property sold not exceeding the amount of the judgment debt, in the nearest Kachcheri to the credit of Revenue and shall produce to the Auctioneer the official receipt.

17. No error or mistake in the description or extent of the property shall vitiate or render the sale void nor shall any compensation be allowed in respect thereof.

18. If the sale is set aside by Court for some reason or other, the Auctioneer is not liable to refund the charges recovered by him. The Auctioneer reserves the right to bid once for the property.

19. If the sale be stayed upon an order of Court on the application of  
40 either party the party making such application shall deposit all charges including Auctioneer's Commission on the claim and costs before such stay of sale.

Conditions of  
Sale marked "B"  
filed with the  
Plaint  
—Continued

## DESCRIPTION OF PROPERTY

### THE FIRST SCHEDULE ABOVE REFERRED TO:

All that allotment of land being a divided and defined portion from and out of the land called Lady Catherine Group situated in the village of Telawela in Palle Pattu of Salpiti Korale in the District of Colombo Western Province and bounded on the North-East by the remaining portion of the same land on the South-East by estate road, on the South-West by part of the same land belonging to Glaxo Laboratories (Ceylon) Limited and on the North-West by the remaining part of the same land containing in extent One Acre (A1 R0.P9.) according to Plan No. 296 dated 10th August 1957 made by K. M. Samara-10 singhe, Licensed Surveyor.

### THE SECOND SCHEDULE ABOVE REFERRED TO:

#### **HIGH SPEED TOBACCO CUTTING MACHINE "SKODA" R6A**

Production No. 52025-equipped with:

- 1 Electric motor 440/220 V
- 1 Tobacco knife
- 4 Knife holders
- Set of spare parts

#### **TOBACCO ROASTER LP-1**

20

Production No: 13145

equipped with:

- 2 Oil Burners
- 2 Exhausters
- 4 Electric motors
- 1 Compressor  
piping

#### **TOBACCO COOLER LX-1**

equipped with:

- 1 Exhauster
- 2 Electric motors  
piping

30

**CIGARETTE MAKING MACHINE "SKODA" C6**

Production No. 56375

equipped with:

- 3 Electric Motors
  - Pickfront device
  - Second printing device
  - Dust exhausting device
  - Set of spare parts
  - Bronzing device

Conditions of  
Sale marked "B"  
filed with the  
Plaint  
—Continued

**10 CIGARETTE PACKING MACHINE "ROSE-RU"**

Production: No. 23758

equipped with:

- Electric motor drive
- Loose-front foil unit
- Set of spare parts

**CELLOPHANE WRAPPING MACHINE "ROSE-NLG"**

Production No. 23757

equipped with:

- Electric motor drive
- 20 Atrip attachment
- Set of spare parts

**BOILER TYPE "VESUV"**

For full diesel Oil fuel

equipped with:

- 1 water gauge
- 1 pressure gauge
- 1 Filling tap
- 1 Overpressure appliance
- 1 Holder or Burner
- 30 1 Burner PLB 1/2
- 1 Rotary Compressor MR 70-D
- Piping for burnt gases
- Air supply piping
- Oil supply piping
- Oil Reservoir
- 1 Electric motor
- 1 Ventilator with piping

Conditions of  
Sale marked "B"  
filed with the  
Plaint  
—Continued

**GRINDING MACHINE FOR TOBACCO CUTTING  
KNIVES "SKODA" BTK 450 (Second Hand)**

Production No. 940

equipped with:

- 1 Electric motor
- 1 Grinding wheel

**THE THIRD SCHEDULE ABOVE REFERRED TO:**

All the rents and profits or other income or return whatsoever of or accruing from the said land machinery and premises and all and every the contracts and contract of insurance in respect of the land and buildings on the 10 land in the First Schedule hereto fully described and the machinery equipment and fixtures in the Second Schedule hereto described and such other machinery or fixtures that may be from time to time therein installed and all sums of money which may be recoverable under the said insurance or insurances and all the estate right title interest property claim and demand whatsoever of the Mortgagor in to out of or upon the same.

The aforesaid conditions having been duly read over and explained the property is put up for sale by public auction and bidden by:-

Name of Bidders	Amount of bids		Name of Bidders	Amount of bids	
	Rs.	cts.		Rs.	cts.

I, Stephen Vincent Perera Jayakody, Licensed Auctioneer of Colombo, do hereby declare that \_\_\_\_\_ this day became the purchaser of the said premises for the sum of Rupees \_\_\_\_\_ and that paid me the sum of Rs. \_\_\_\_\_ in payment of the purchase money as aforesaid

Conditions of  
Sale marked "B"  
filed with the  
Plaint  
—Continued

As witness set my hand at \_\_\_\_\_ on this \_\_\_\_\_ day of  
One Thousand Nine Hundred and \_\_\_\_\_  
Auctioneer I, \_\_\_\_\_ do hereby acknowledge  
that \_\_\_\_\_ this day purchased the said premises for the sum of Rupees  
10 \_\_\_\_\_ bind \_\_\_\_\_ for the due performance thereof.

As witness set \_\_\_\_\_ hand at \_\_\_\_\_ on this \_\_\_\_\_ day of  
One Thousand Nine Hundred and \_\_\_\_\_

Witnesses:

*Purchaser.*

We

do hereby bind ourselves jointly and severally as sureties for the said purchaser for the payment of the balance purchase money and the due performance of all the aforesaid conditions hereby renouncing all privileges to which we as sureties are otherwise by law entitled.

20 As witness set our hands at \_\_\_\_\_ on this \_\_\_\_\_ day of  
One Thousand Nine Hundred and \_\_\_\_\_

Witnesses:

*Sureties.*

I,  
Notary public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by the said Stephen Vincent Perera Jayakody, the Auctioneer who is known to me and who signed his instrument as "S. V. P. Jayakody" and by me the said Notary to the within named purchaser  
30 the same was signed by the said Auctioneer, the purchaser, \_\_\_\_\_,  
the witnesses and by me the said Notary in the presence of one another all  
being present at the same time at \_\_\_\_\_ at \_\_\_\_\_ on this  
day of One Thousand Nine Hundred and \_\_\_\_\_

I further certify

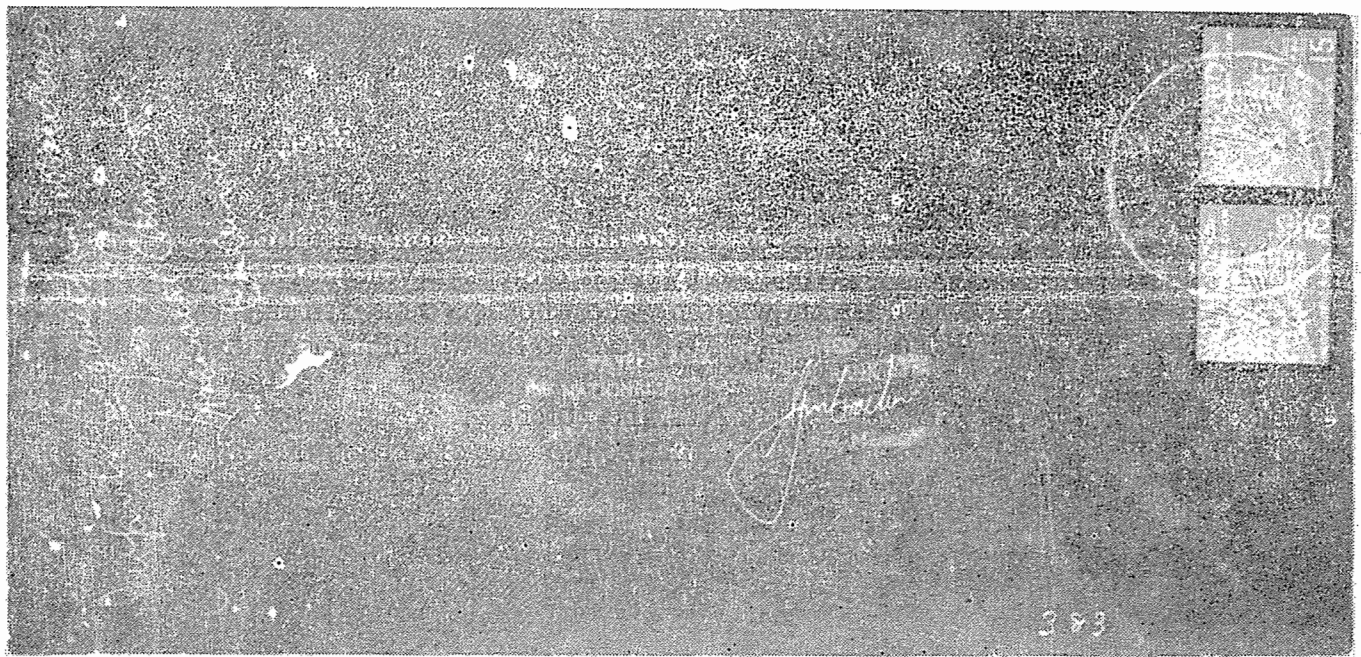
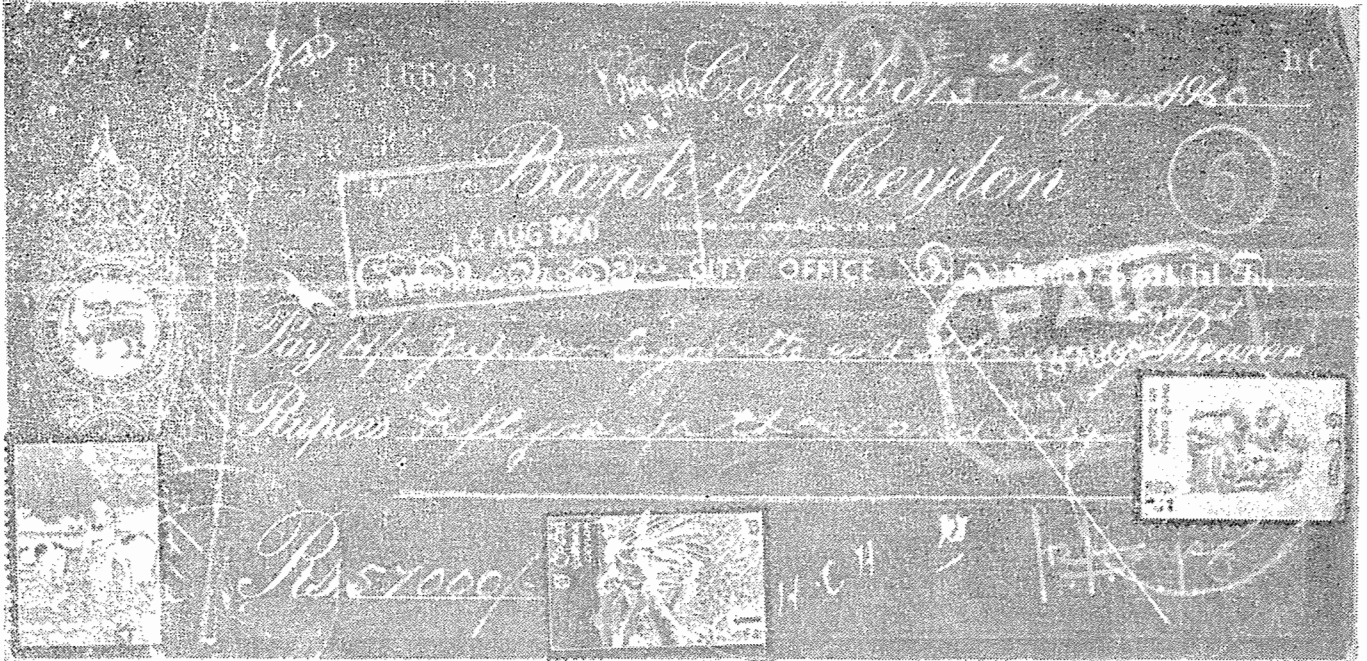
Date of Attestation

*Notary Public*

P 2  
Bank of Ceylon  
Cheque for Rs.  
57,000/-  
13-8-60

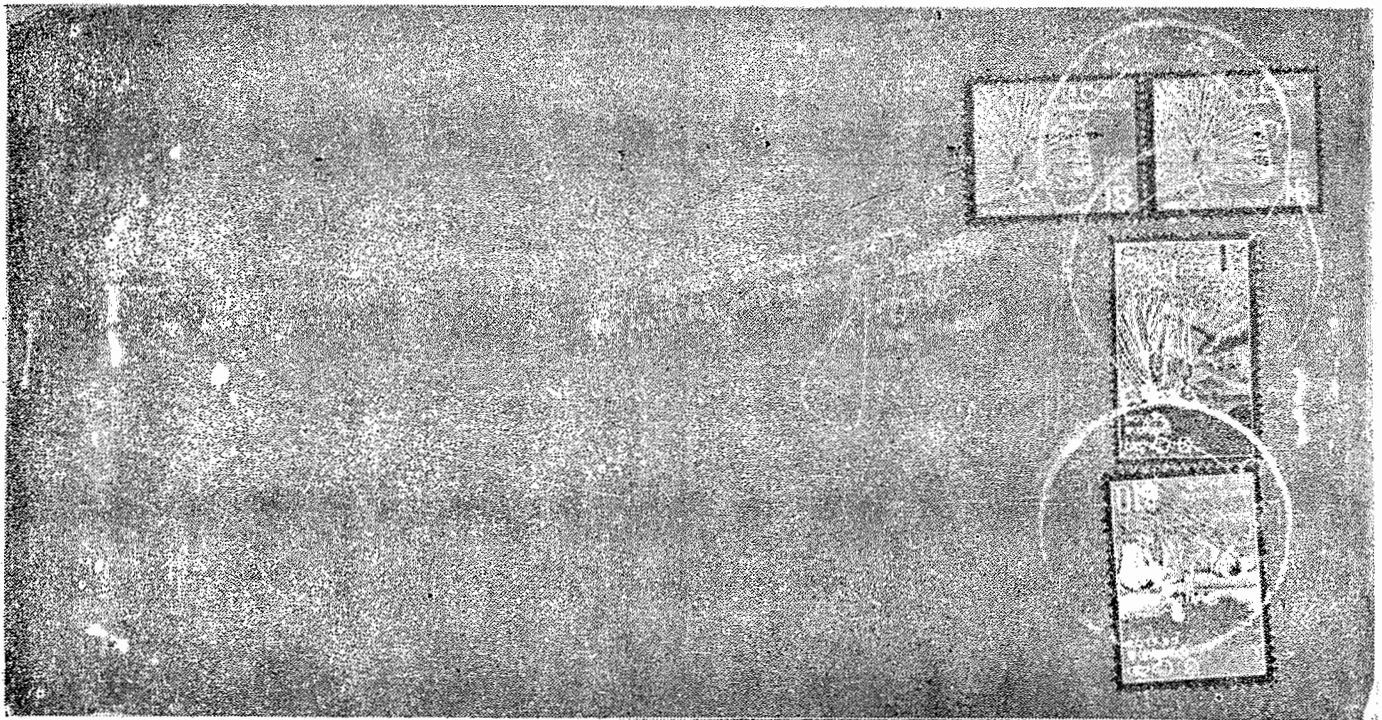
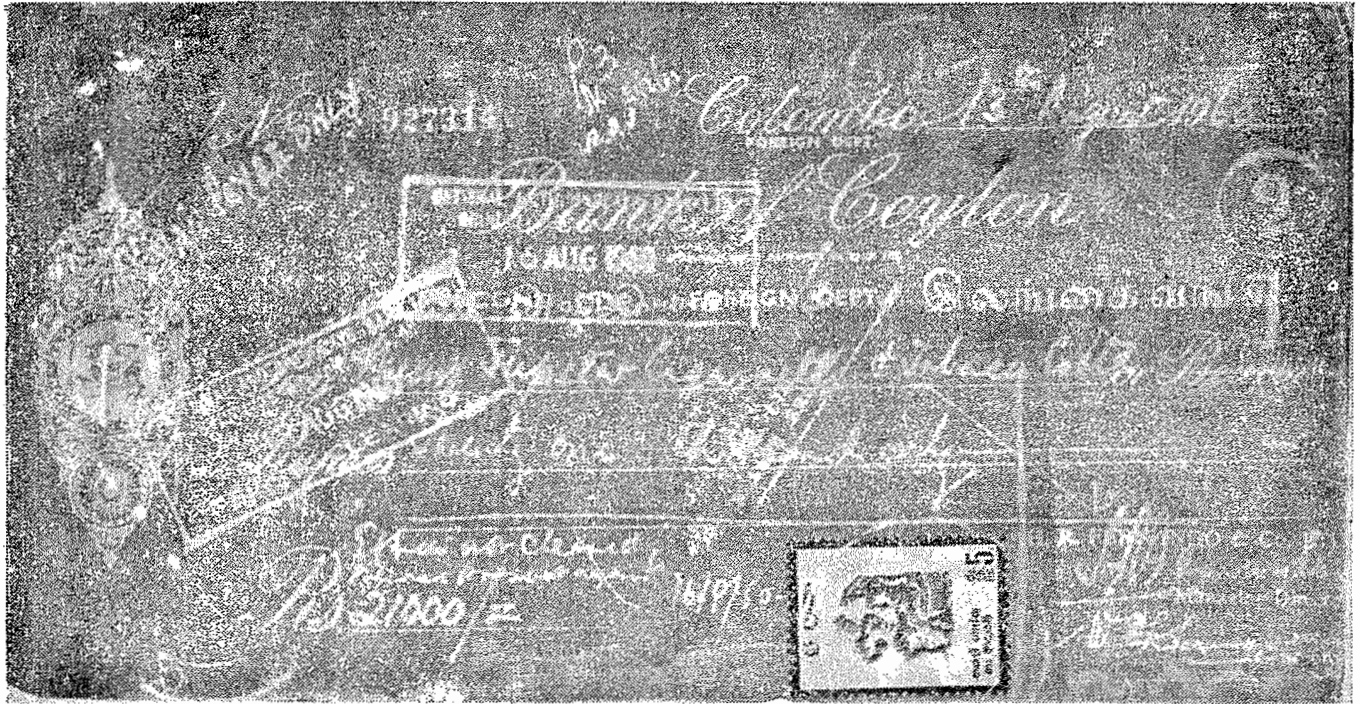
P 2

**BANK OF CEYLON CHEQUE FOR RS. 57,000/-**





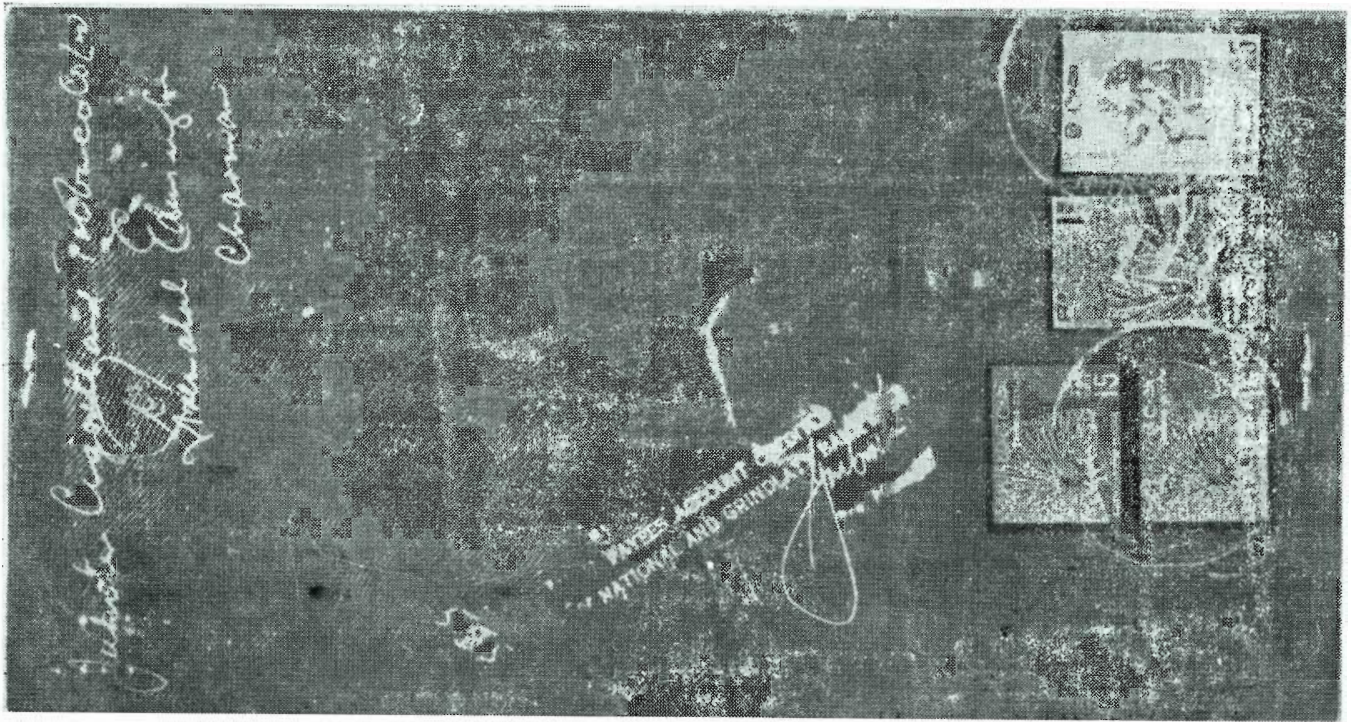
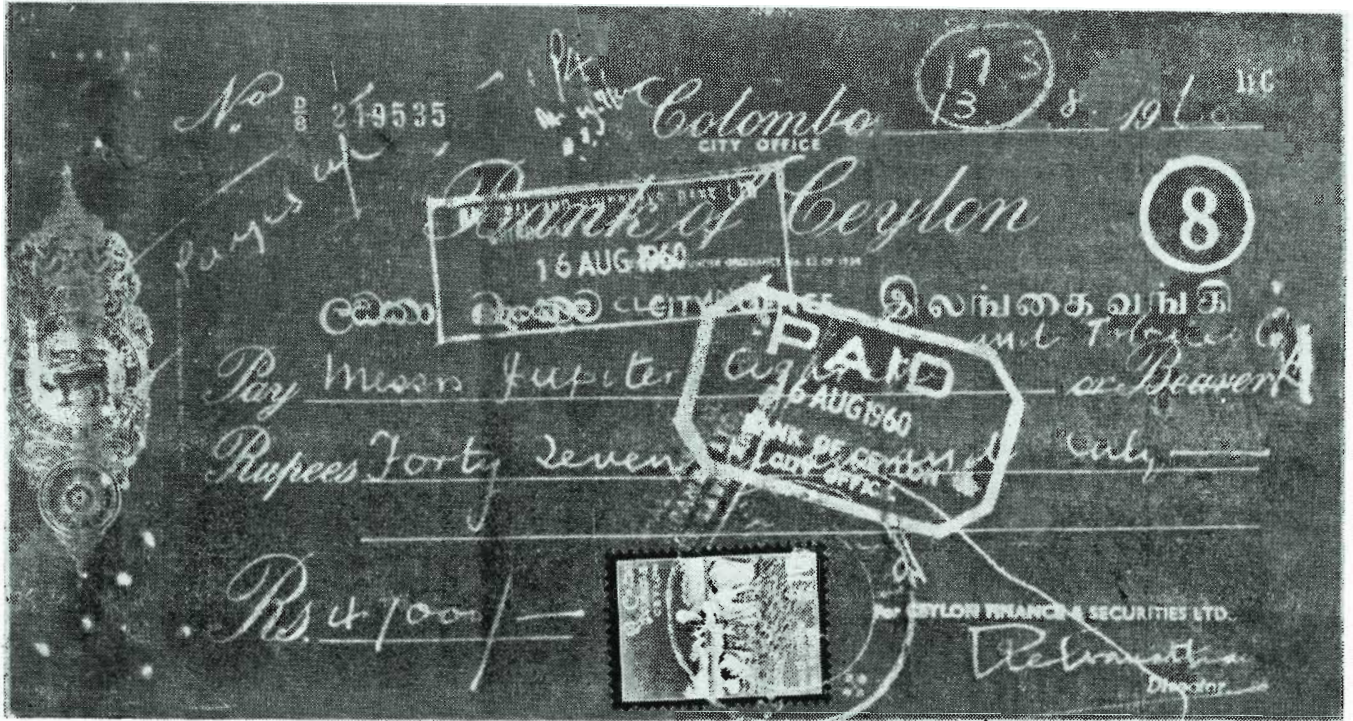
BANK OF CEYLON CHEQUE FOR RS. 21,000/-





P 4  
Bank of Ceylon  
Cheque for Rs.  
47,000/-  
13-8-60

**BANK OF CEYLON CHEQUE FOR RS. 47,000/-**





P 16

**RECEIPT GIVEN BY DIRECTOR OF THE JUPITER CIGARETTE & TOBACCO CO LTD. FOR RS. 47,000/- RECEIVED FROM THE CEYLON FINANCE & SECURITIES LTD.**

P 16  
Receipt given by the Director of the Jupiter Cigarette & Tobacco Co. Ltd. for Rs. 47,000/- received from The Ceylon Finance & Securities Ltd. 13-8-60

Received from M/s. Ceylon Finance & Securities Ltd. of 282, Grandpass Road, Colombo the sum of Rupees Forty Seven Thousand (Rs. 47,000/-) only being consideration on Mortgage Bond No. 432 of 13-8-60 attested by Mr. M. Ranganathan, Notary Public due from the said Company by Bank of Ceylon (City Office) Cheque No. D/8-249535 of 13-8-60.

10

For the Jupiter Cigarette & Tobacco Co. Ltd.

Sgd. (on Ten Cents stamp — Illegibly)  
*Director.*  
13-8-60.

D 7

**TRANSFER OF SHARES BY C. P. SIVADAS TO U. PODIHAMINE**

D 7  
Transfer of Shares by C.P. Sivadas to U. Podihamine 13-8-60

Transfer Fee: Rs. 2.50

Approved.....

*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED**

20

**TRANSFER OF SHARES**

I, Chathampalli Poovadan Sivadas of 22, Mount Pleasant, Baseline Road, Colombo in consideration of the sum of Rupees Eighty four and cents Seventy five ( Rs. 84/75) only paid me by (in block letters please) UGALAGE PODIHAMINE of 1666 Cotta Road, Rajagiriya do hereby transfer to the said Ugalage Podihamine one share numbered ONE in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Ugalage Podihamine Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold same.

30

And I; the said Ugalage Podihamine do hereby agree to take the said one share subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. K. SELVANATHAN

Witness : Sgd. M. RANGANATHAN

Sgd. C. P. SIVADAS  
*Transferor.*  
Indian Citizen  
*Nationality.*

40

Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferor.*

.....*Nationality.*

D 11  
Transfer of  
Shares by P. E.  
Rani Dias to  
E. A. P. Ediri-  
singhe  
13-8-60.

**D 11**

**TRANSFER OF SHARES BY P. E. RANI DIAS  
TO E. A. P. EDIRISINGHE**

Transfer Fee : Rs. 2/50

Approved.....  
*Director*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

I, Ponnahennedige Ebert Rani Dias of 'Sriyantha' Panadura in 10 consideration of the sum of Rupees Sixteen Thousand Nine Hundred and Fifty (Rs. 16,950/-) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of No. 122, Ward Place, Colombo 7 — do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe two hundred 200 shares numbered 1294 — 1493 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe his Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby 20 agree to take the said two hundred (200) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : .....

Sgd. Illegibly  
*Transferor.*

Ceylonese  
*Nationality.*

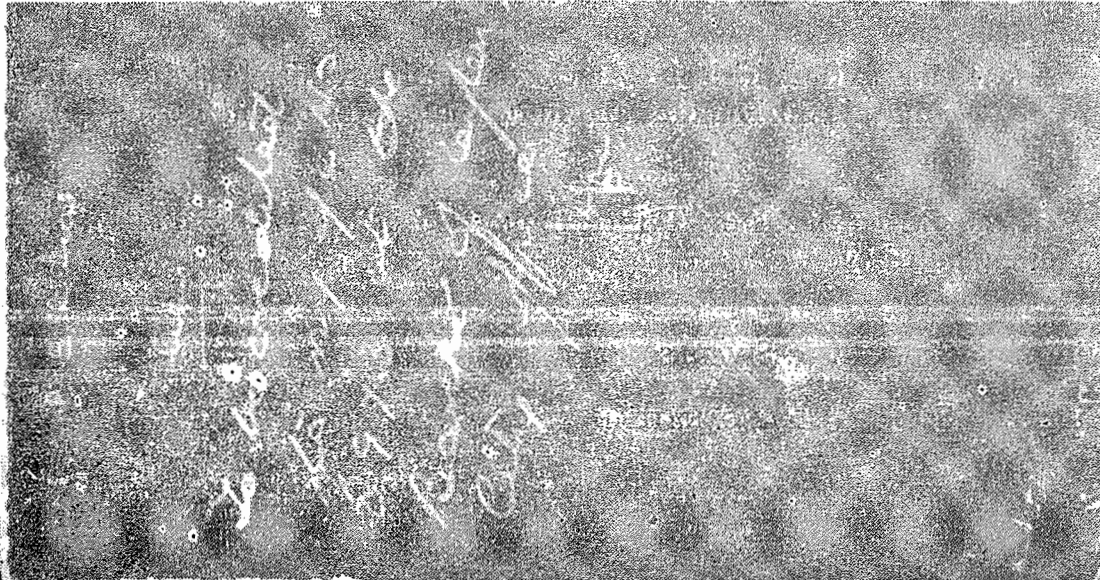
.....  
*Transferee.* 30

.....  
*Nationality.*

D 60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 16,950/-  
IN FAVOUR OF P. E. R. DIAS**

D. 60  
National and  
Grindlays Bank  
Cheque for Rs.  
16,950/- in  
favour of P. E.  
R. Dias  
13-8-60



D 12

D 12  
Transfer of  
Shares by K.  
Selvanathan to  
E. A. P. Ediri-  
singhe  
13.8.60

**TRANSFER OF SHARES BY K. SELVANATHAN  
TO E. A. P. EDIRISINGHE**

Transfer Fee : Rs. 2/50.

Approved .....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

I, Kanapathy Selvanathan of 15, Alfred House Avenue, Colombo in 10 consideration of the sum of Rupees Fifty Four Thousand Two Hundred and Forty only (Rs. 54,240/-) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Six Hundred and Forty 640 shares numbered 4 and 1564 — 2202 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby 20 agree to take the said Six Hundred and Forty shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. C. P. SIVADAS

Witness : Sgd. M. RANGANATHAN

Sgd. K. SELVANATHAN  
*Transferor*

Ceylonese  
*Nationality.*

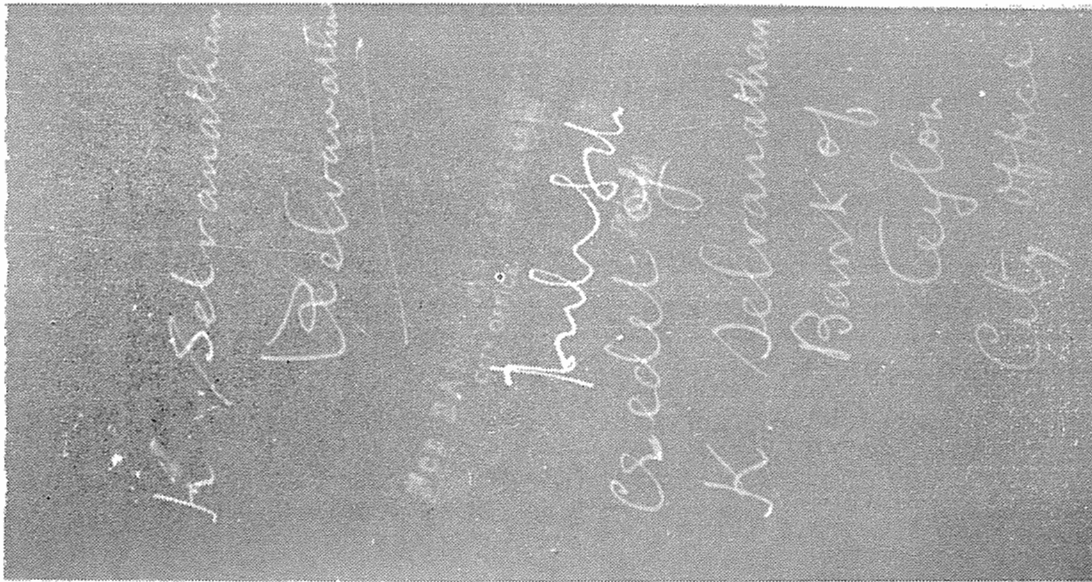
30

Sgd. E. A. PREMALAR EDIRISINGHE  
*Transferee.*

.....*Nationality.*

NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 54,240/-  
IN FAVOUR OF K. SELVANATHAN

D 71  
National and  
Grindlays Bank  
Cheque for Rs.  
54,240/- in  
favour of K.  
Selvanathan  
13-8-60



D 14  
Transfer of  
Shares by H.  
Richard Fernan-  
do to E. A. P.  
Edirisinghe  
13-8-60

**TRANSFER OF SHARES BY H. RICHARD FERNANDO  
TO E. A. P. EDIRISINGHE**

Transfer Fee : Rs. 2/50.

No. ....

Approved.....

*Director*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Hubert Richard Fernando of 64, Lauries Road, Colombo in considera-  
tion of the sum of Rupees Twelve Thousand Seven Hundred and Twelve and  
cents Fifty only (Rs. 12,712/50) paid me by (in block letters please) EDIRI-  
SINGHE ARACHIGE PREMALAL EDIRISINGHE of 122, Ward Place,  
Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Ediri-  
singhe 150 shares numbered 2 and 456 — 604 in THE JUPITER CIGA-  
RETTE & TOBACCO COMPANY LIMITED, standing in my name in the  
books of the said Company, to hold unto the said Edirisinghe Arachige  
Premlal Edirisinghe Heirs, Executors Administrators and Assigns, subject to  
the several conditions on which I hold the same. 20

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby  
agree to take the said 150 shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand  
Nine Hundred and Sixty.

Witness : Sgd. K. SELVANATHAN

Witness : Sgd. M. RANGANATHAN

Sgd. H. R. FERNANDO  
*Transferor.*

Citizen of Ceylon  
*Nationality.*

30

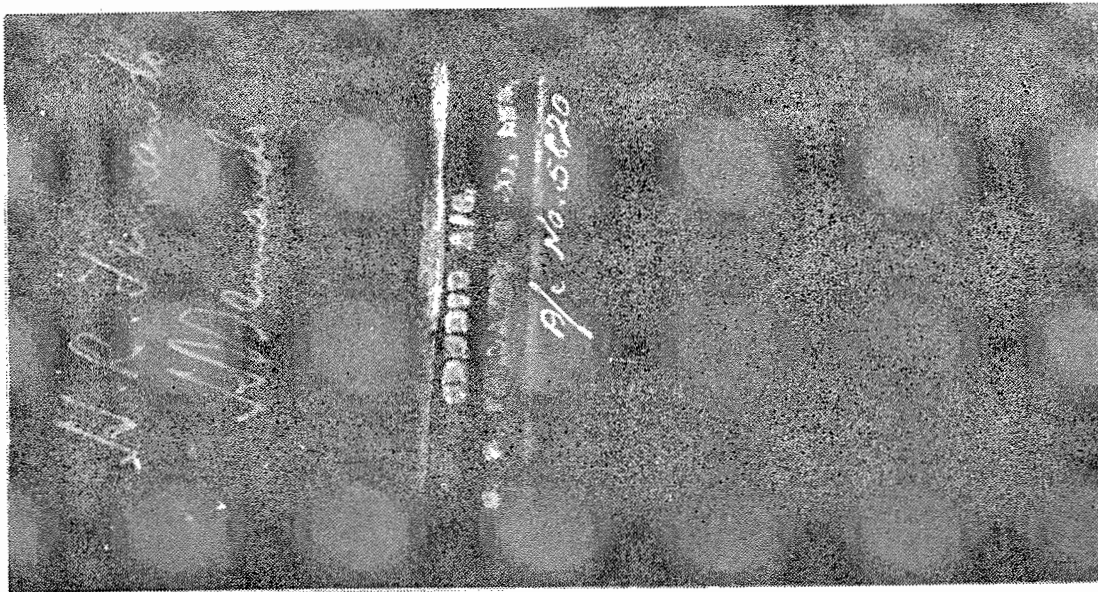
Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

.....*Nationality.*



NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 12,712/50  
IN FAVOUR OF H. R. FERNANDO

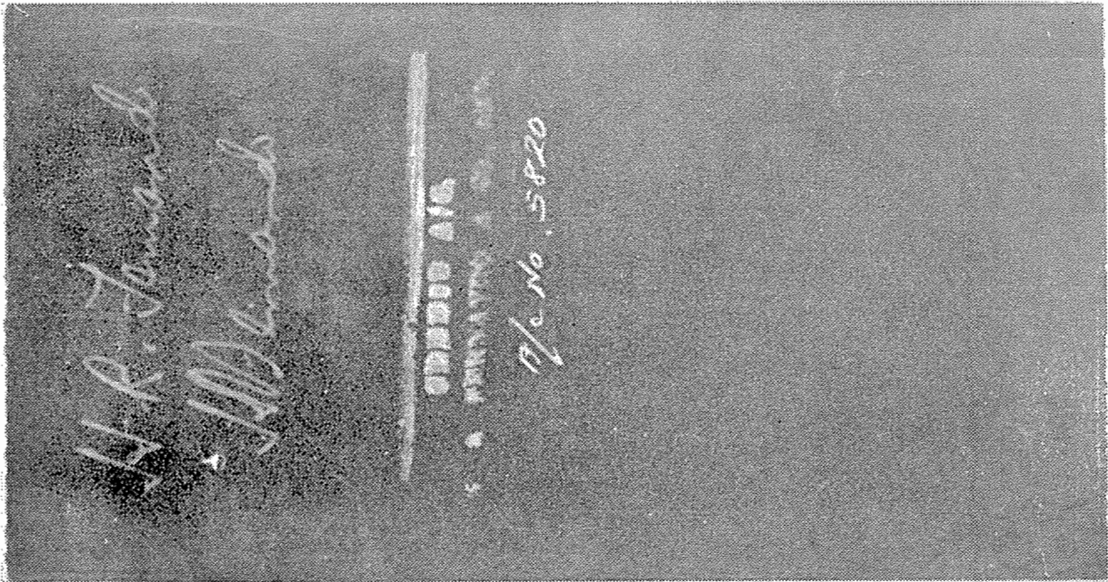
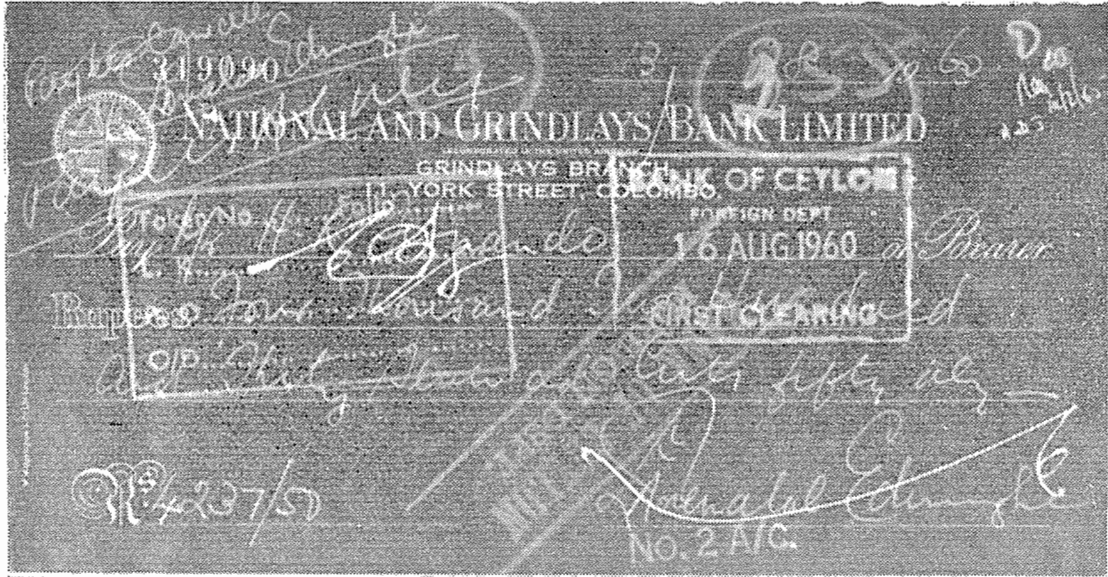
D 9  
National and  
Grindlays Bank  
Cheque for Rs.  
12,712/50 in  
favour of H. R.  
Fernando  
13-8-60





D 10  
National And  
Grindlays Bank  
Cheque for Rs.  
4,237/50 in  
favour of H. R.  
Fernando  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 4237/50  
IN FAVOUR OF H. R. FERNANDO**



D 18

**TRANSFER OF SHARES BY MUANWELLA ESTATE COMPANY LTD.  
TO E. A. P. EDIRISINGHE**

D 18  
Transfer of  
Shares by  
Muanwella  
Estate Company  
Ltd. to E. A. P.  
Edirisinghe  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Muanwella Estate Company Limited of 74, Flower Road, Colombo 7 in consideration of the sum of Rupees Five Thousand Two Hundred and Fifty Four and cents Fifty (Rs. 5254/50) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of No. 122, Ward Place, Colombo 7, do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe 62 shares numbered 394 — 455 in THE JUPITER CIGARETTE AND TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe his Heirs, Executors, Administrators and Assigns, subject to  
20 the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Sixty two (62) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. Illegibly

Witness : Sgd. Illegibly

**THE MUANWELLA ESTATE CO. LTD.**

Sgd. Illegibly  
*Transferor.*

30

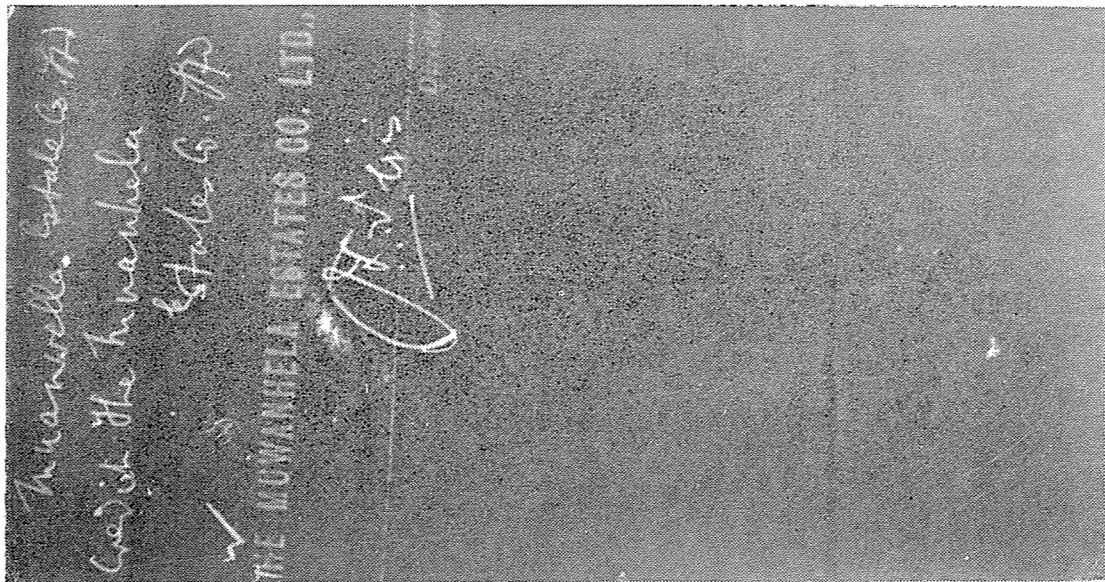
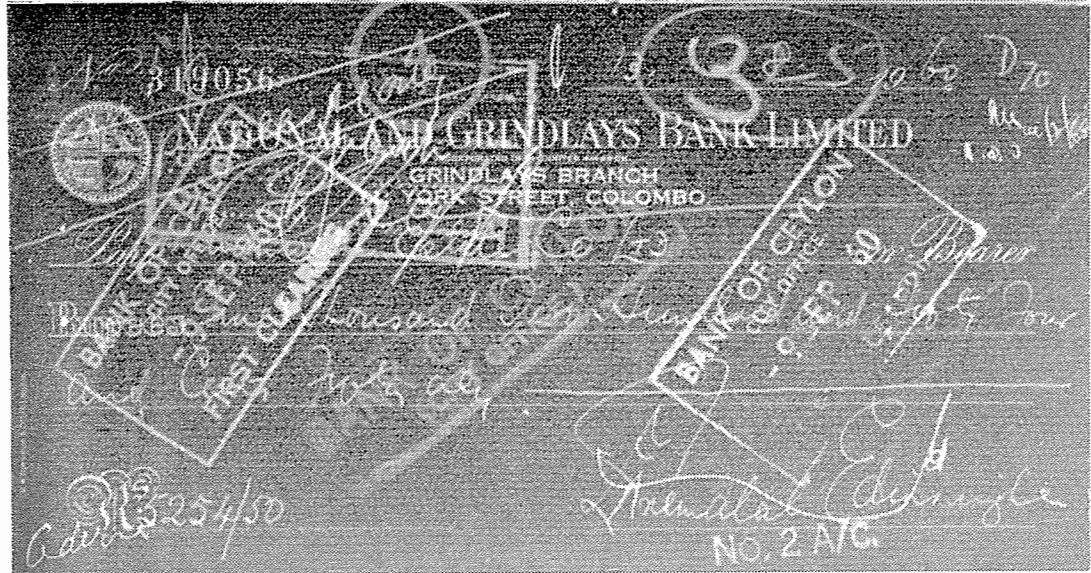
.....Nationality.

.....  
*Transferee.*

.....Nationality.

D 70  
National And  
Grindlays Bank  
Cheque for Rs.  
5254/50 in  
favour of  
Muwanwella  
Estate Co. Ltd.  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 5,254/50  
IN FAVOUR OF MUVANWELLA ESTATE CO. LTD.**



**D 19**

**TRANSFER OF SHARES BY H. C. PEIRIS  
TO E. A. P. EDIRISINGHE**

D 19  
Transfer of  
Shares by H. C.  
Peiris to E. A.  
P. Edirisinghe  
13.8.60

Transfer Fee : Rs. 2/50.

No. ....

Approved.....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Hitakami Chidruka Peiris of 74, Flower Road, Colombo in consideration of the sum of Rupees Five Thousand Three Hundred and Thirty Nine 25/100 only (5339/25) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe 63 shares numbered..... in **THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED**, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the  
20 same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Sixty three shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. Illegibly

Witness : Sgd. Illegibly

Sgd. H. C. PEIRIS  
*Transferor.*

Ceylonese  
*Nationality.*

30

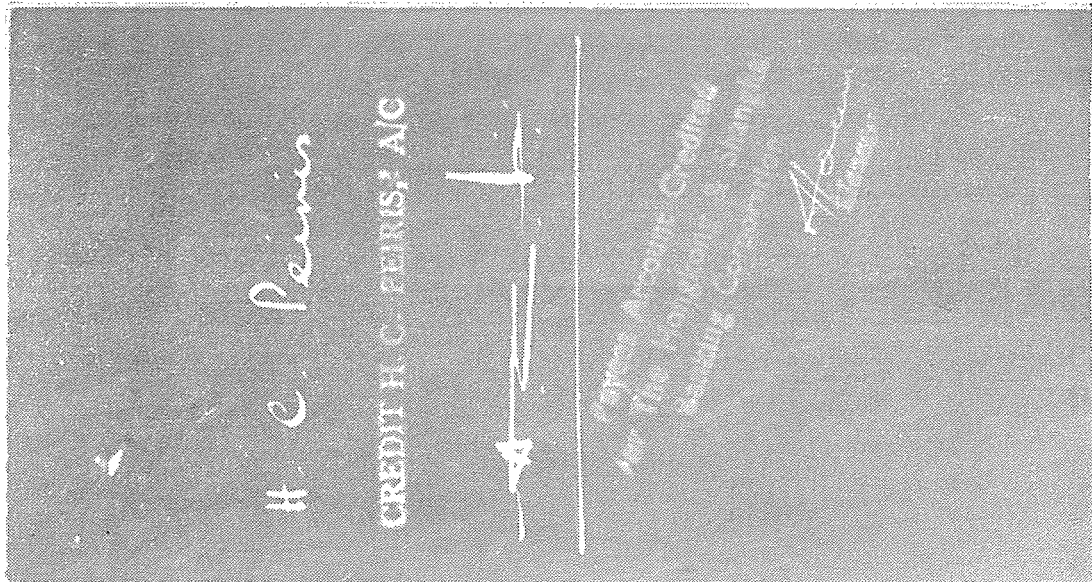
.....  
*Transferee.*

.....*Nationality.*

D 68

D 68  
National And  
Grindlays Bank  
Cheque for Rs.  
5,339/25 in  
favour of H. C.  
Peiris  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 5,339/25  
IN FAVOUR OF H. C. PEIRIS**





**D 26**

**TRANSFER OF SHARES BY H. V. S. SOYSA  
TO E. A. P. EDIRISINGHE**

D 26  
Transfer of  
Shares by  
H. V. S. Soysa  
to E. A. P.  
Edirisinghe  
13-8-60

Transfer Fee : Rs. 2.50.

No.....

Approved. ....  
*Director*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10 **TRANSFER OF SHARES**

I, Henedige Vimal Siriyani Soysa of Siriyantha, Panadura in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty only Rs. 4237/50 paid me by (in block letters please) EDIRISINGHE ARACHIGE PREMALAL EDIRISINGHE of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (50) shares numbered 929—978 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the 20 several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe hereby agree to take the said (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One thousand Nine hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : Sgd. R. RANGANATHAN

Sgd. VIMAL SOYSA  
*Transferor.*

.....Nationality.

30

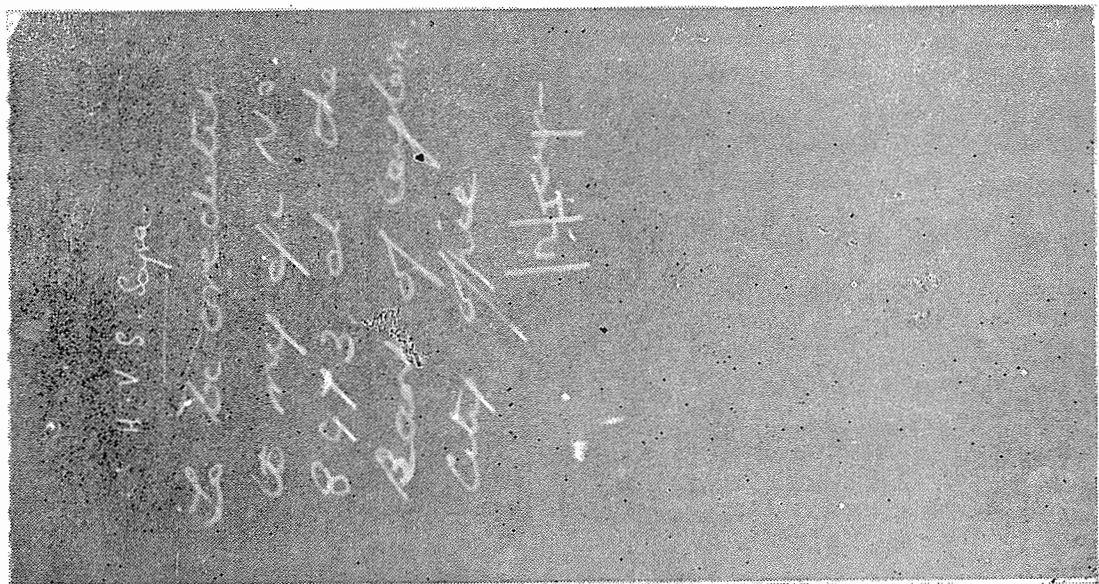
Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

.....Nationality.

D 64

D 64  
National And  
Grindlays Bank  
Cheque for Rs.  
4237/50 in  
favour of  
H. V. S. Soysa  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 4,237/50  
IN FAVOUR OF H. V. S. SOYSA**



**TRANSFER OF SHARES BY H. J. CHANDRAMALI SOYSA  
TO E. A. P. EDIRISINGHE**

D 28  
Transfer of  
Shares by H. J.  
Chandramali  
Soyasa to E. A.  
P. Edirisinghe  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Henedige Janaky Chandramali Soysa of Sriyantha, Panadura in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty only 4237/50 paid me by (in block letters please) EDIRISINGHE ARACHIGE PREMALAL EDIRISINGHE of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (50) shares numbered 979—1028 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, 20 subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : Sgd. M. RANGANATHAN

Sgd. CHANDRAMALI SOYSA.  
*Transferor.*

.....Nationality.

30

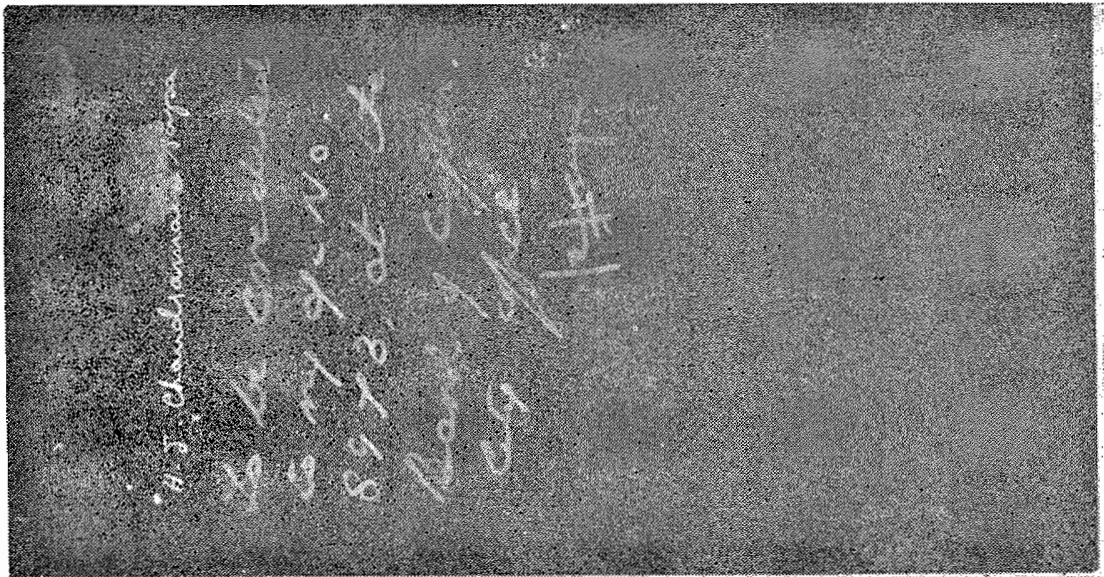
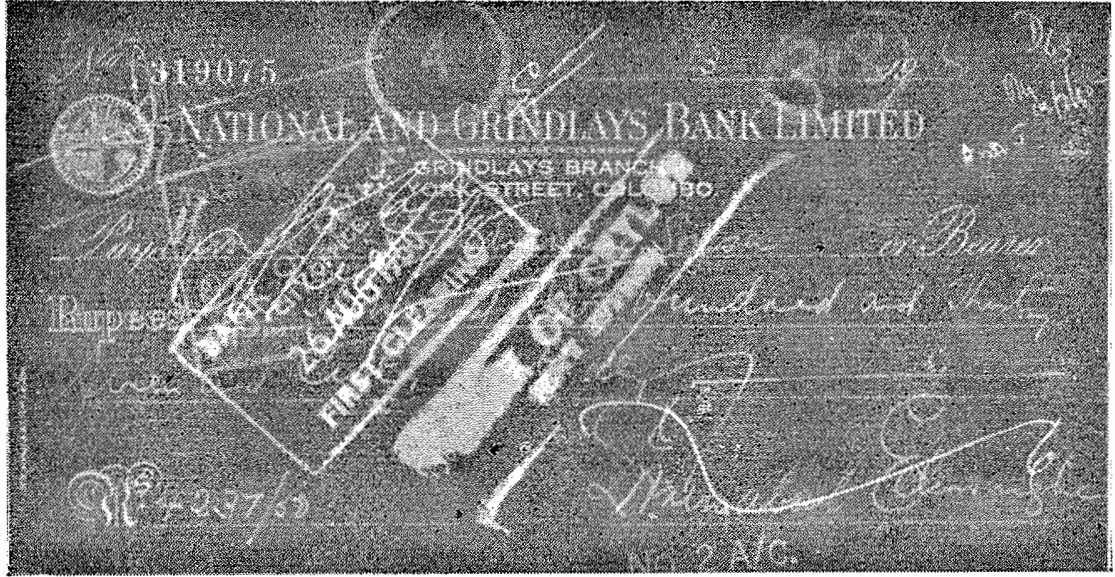
Sgd. E. D. PREMALAL EDIRISINGHE  
*Transferee.*

.....Nationality.



D 63  
National And  
Grindlays Bank  
Cheque for Rs.  
4237/50 in  
favour of  
H. J. Chandramali Soysa  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 4237/50  
IN FAVOUR OF H. J. CHANDRAMALI SOYSA**



D 30

**TRANSFER OF SHARES BY P. I. H. DE MEL  
TO E. A. P. EDIRISINGHE**

D 30  
Transfer of  
Shares by P. I.  
H. de Mel to  
E. A. P. Ediri-  
singhe  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Phyllis Irene Henrietta De Mel of Glenmore, Moratuwa in considera-  
tion of the sum of Rupees Fourteen Thousand Eight Hundred and Thirty  
One and cents Twenty Five Rs. 14,831/25 paid me by (in block letters please)  
EDIRISINGHE ARACHIGE PREMALAL EDIRISINGHE of No. 122,  
Ward Place, Colombo 7 do hereby transfer to the said Edirisinghe Arachige  
Premalal Edirisinghe, one hundred and seventy five (175) shares numbered 3  
and 7 to 180 in THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED, standing in my name in the books of the said Company, to hold  
unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors,  
20 Administrators and Assigns, subject to the several conditions on which I  
hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby  
agree to take the said one hundred and seventy five shares subject to the same  
conditions.

As witness our hands the Thirteenth day of August One Thousand  
Nine Hundred and Sixty.

Witness : Sgd. Illegibly

Witness : .....

Sgd. PHYLLIS DE MEL  
*Transferor.*

30

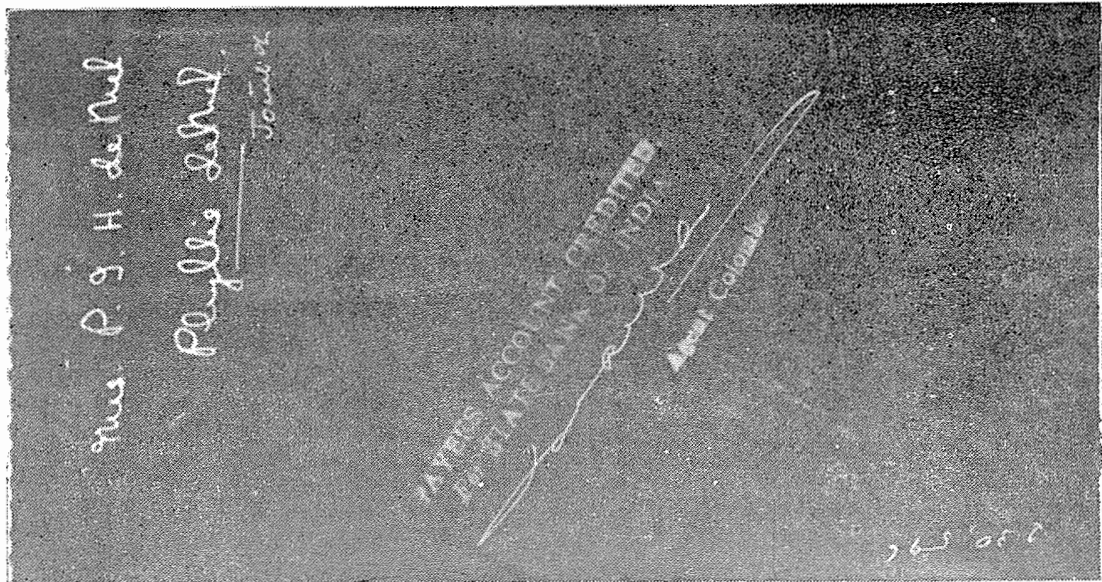
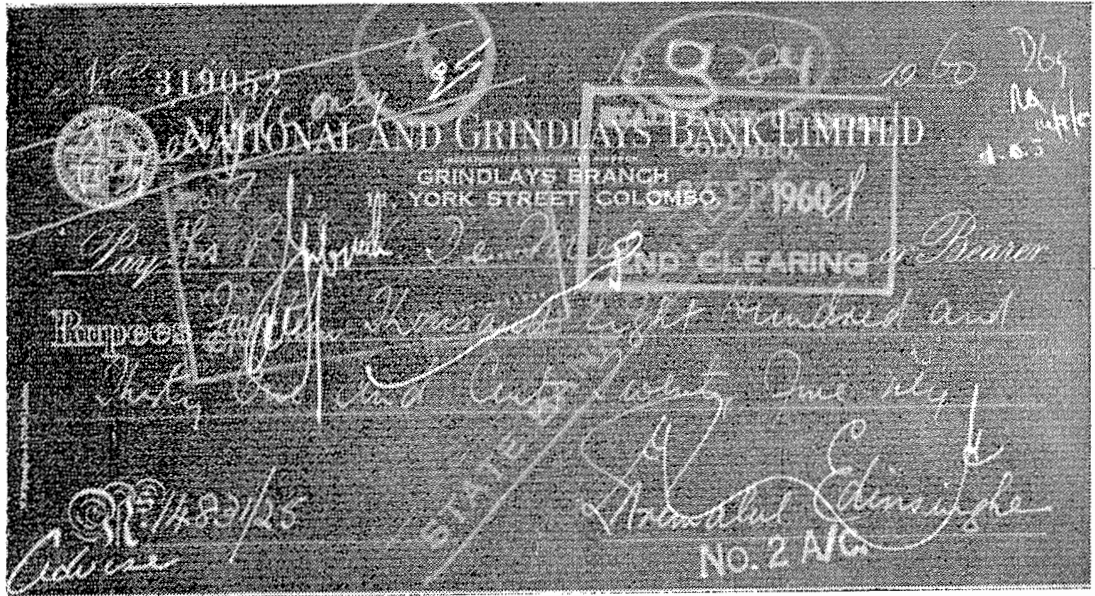
.....  
*Nationality.*

.....  
*Transferee.*

.....  
*Nationality.*

D 69 National And Grindlays Bank Cheque for Rs. 14,831/25 in favour of P. I. H. de Mel 13-8-60

NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 14,831/25 IN FAVOUR OF P. I. H. De MEL



**TRANSFER OF SHARES BY H. P. NANDALAL SOYSA  
TO E. A. P. EDIRISINGHE**

D 32  
Transfer of  
Shares by H. P.  
Nandalal Soysa  
to E. A. P.  
Edirisinghe  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Henedige Preman Nandalal Soysa of "Sriantha", Panadura in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty (Rs. 4,237/50) paid me by (in block letters please) Edirisinghe Arachige Premalal Edirisinghe of 122, Ward Place, Colombo 7 do hereby transfer to the said Edirisinghe Arachige Premalal Edirisinghe fifty (50) shares numbered 1029 — 1078 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premalal Edirisinghe his Heirs, Executors, Administrators and Assigns, subject to the several 20 conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premalal Edirisinghe do hereby agree to take the said fifty (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One thousand Nine Hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : Sgd. M. RANGANATHAN

Sgd. PREMAN SOYSA  
*Transferor.*

.....Nationality.

30

Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

.....Nationality.





D 50

**TRANSFER OF SHARES BY H. F. CHAPMAN  
TO E. A. P. EDIRISINGHE**

D 50  
Transfer of  
Shares by  
H. F. Chapman  
to E. A. P.  
Edirisinghe  
13-8-60

Transfer Fee : Rs. 2.50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Hector Frederick Chapman of 153, Templars Road, Mt. Lavinia in consideration of the sum of Rupees Twenty One Thousand One Hundred and Two and cents Seventy Five (Rs. 21,102/75) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo 7 do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe 249 shares numbered 2367 to 2615 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe his Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said two hundred and forty nine shares subject to the same conditions.

As witness our hands the 13th day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. K. SELVANATHAN

Witness : Sgd. M. RANGANATHAN

12, Wilson Street,  
Colombo 12.

30

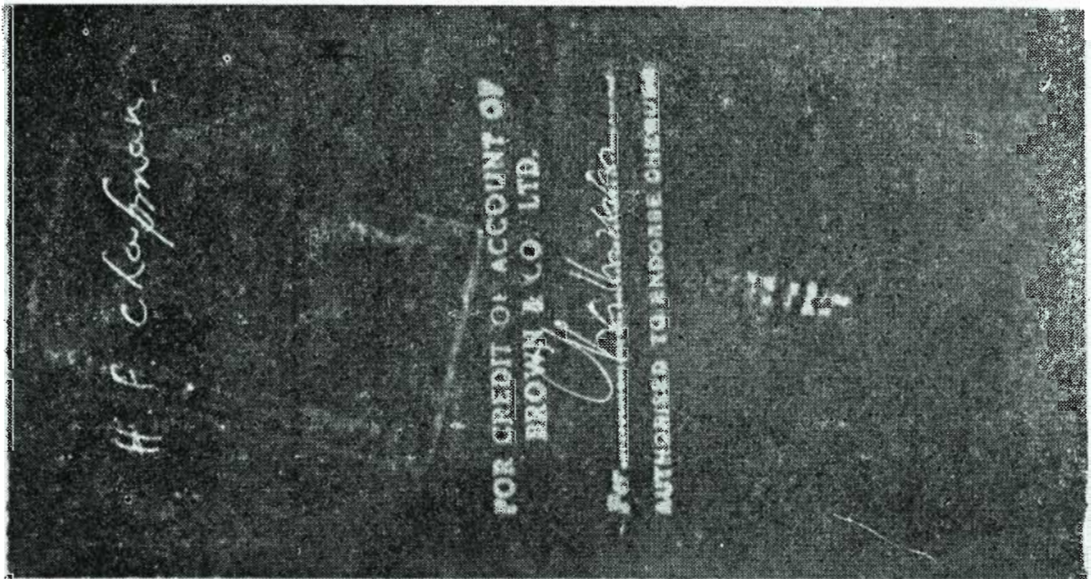
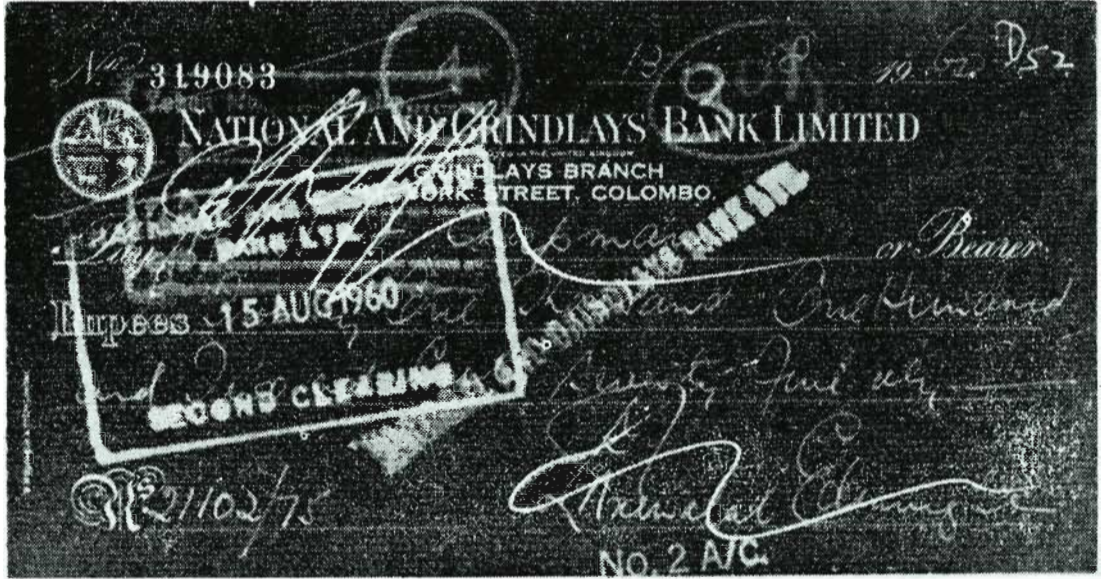
Sgd. H. F. CHAPMAN  
*Transferor.*

British  
*Nationality.*

Sgd. E. A. PREMALAR EDIRISINGHE  
*Transferee*  
*Sinhalese*  
*Nationality.*

D 52  
National And  
Grindlays Bank  
Cheque-for Rs.  
21,102/75 in  
favour of H. F.  
Chapman  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 21,102/75  
IN FAVOUR OF H. F. CHAPMAN**



D 13

**TRANSFER OF SHARES BY H. C. HENRY SOYSA  
TO E. A. P. EDIRISINGHE**

D 13  
Transfer of  
Shares by H. C.  
Henry Soysa to  
E. A. P.  
Edirisinghe  
13-8-60

Transfer Fee : Rs. 2/50.

No.....

Approved .....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Hennedige Charles Henry Soysa of No. 7, Greenlands Avenue, Colombo 5, in consideration of the sum of Rupees Six Thousand Three Hundred and Fifty Six and cents Twenty Five (Rs. 6,356/25) paid me by (in block letters please) EDIRISINGHE ARACHIGE PREMALAL EDIRISINGHE of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premalal Edirisinghe (75) shares numbered 5 and 655-728 in THE JUPITER CIGARETTE AND TOBACCO COMPANY LIMITED standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns,  
20 subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Seventy Five shares subject to the same conditions.

As witness our hands the Thirteenth day of August One thousand Nine Hundred and sixty.

Witness : Sgd. K. SELVANATHAN

Witness : Sgd. M. RANGANATHAN

Sgd. H. C. H. SOYSA  
*Transferor.*

.....Nationality.

30

Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

.....Nationality.



D 15  
Transfer of  
Shares by V. M.  
de Mel to  
E. A. P. Ediri-  
singhe.  
13-8-60

**D 15**

**TRANSFER OF SHARES BY V. M. DE MEL  
TO E. A. P. EDIRISINGHE**

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Vincent Manuel De Mel of Supreme Knitting Co., Moratuwa in consideration of the sum of Rupees Two Thousand One Hundred and Eighteen and cents Seventy Five (Rs. 2118/75) paid me by (in block letters please) EDIRISINGHE ARACHIGE PREMLAL EDIRISINGHE of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe 25 shares numbered 306 to 330 in THE JUPITER CIGARETE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

20

And, I the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Twenty five shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness. ....

Witness. ....

Sgd. V. M. DE MEL  
*Transferor*  
*Ceylonese (British)*  
*Nationality.*

30

.....  
*Transferee.*

.....*Nationality.*

**D 16**

**TRANSFER OF SHARES BY S. SELVANATHAN  
TO E. A. P. EDIRISINGHE**

D 16  
Transfer of  
Shares by S.  
Selvanathan to  
E. A. P. Ediri-  
singhe  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Sashilekha Selvanathan of 15, Allred House Avenue, Colombo in consideration of the sum of Rupees One Thousand Six Hundred and Ninety Five only Rs. 1,695/- paid me by (in block letters please) EDIRISINGHE ARACHIGE PREMLAL EDIRISINGHE of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (20) shares numbered 3222 --- 3241 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the  
20 several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Twenty shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. C. P. SIVADAS

Witness : Sgd. M. RANGANATHAN

Sgd. S. SASHILEKHA  
*Transferor.*

.....Nationality.

Sgd. E. A. PREMLAL EDIRISINGHE  
*Transferee.*

.....Nationality.

30

D 17  
Transfer of  
Shares by S. C.  
Kanapathy  
Chetty to E. A.  
P. Edirisinghe  
13-8-60

D 17

**TRANSFER OF SHARES BY S. C. KANAPATHY CHETTY  
TO E. A. P. EDIRISINGHE**

Transfer Fee: Rs. 2/50.

No. ....

Approved.....

*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Sellam Chetty Kanapathy Chetty of 15, Alfred House Avenue, Colombo 3 in consideration of the sum of Rupees Five Thousand Nine Hundred Thirty Two and cents Fifty (Rs. 5,932/50) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of No. 122, Ward Place, Colombo 7 do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe 70 shares numbered 1494 to 1563 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe his Heirs, Executors, Administrators and Assigns, subject to the Several conditions on which I hold the same.

20

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said seventy (70) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness: Sgd. C. P. SIVADAS

Witness: Sgd. M. RANGANATHAN

Sgd. KANAPATHI CHETTY  
*Transferor.*

Sgd. E. A. PREMLAL EDIRISINGHE  
*Transferee.*

30

D 20

**TRANSFER OF SHARES BY H. G. SIROMI SOYSA  
TO E. A. P. EDIRISINGHE**

D 20  
Transfer of  
Shares by H. G.  
Siromi Soysa  
to E. A. P.  
Edirisinghe  
13.8.60

Transfer Fee: Rs. 2/50

No.....

Approved:.....  
*Director.*

THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED

10

## TRANSFER OF SHARES

I, Hennedige Gayathri Siromi Soysa of No. 7, Greenlands Avenue, Colombo 5 in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven (Rs. 4,237/50) paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe 50 shares numbered 779—828 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED standing in my name in the books of the said Company, to hold unto the said, Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which  
20 I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Fifty (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness: Sgd. H. C. H. SOYSA

Witness: Sgd. M. RANGANATHAN

Sgd. SIROMI SOYSA  
*Transferor.*

Sgd. E. A. PREMLAL EDIRISINGHE  
*Transferee.*

30

D 21  
Transfer of  
Shares by M.  
Selvanathan to  
E. A. P.  
Edirisinghe  
13-8-60

D 21

**TRANSFER OF SHARES BY M. SELVANATHAN  
TO E. A. P. EDIRISINGHE**

Transfer Fee: Rs. 2/50

No.....

Approved.....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Manoharan Selvanathan of 15, Alfred House Avenue, Colombo in consideration of the sum of Rupees One Thousand Six Hundred and Ninety Five only paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (20) shares numbered 2223 — 2242 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Twenty shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness: Sgd. C. P. SIVADAS

Witness: Sgd. M. RANGANATHAN

Sgd. S. MANOHARAN  
*Transferor.*

Sgd. E. A. PREMALAR EDIRISINGHE  
*Transferee.*

D 22

**TRANSFER OF SHARES BY H. A. VINCENT SOYSA  
TO E. A. P. EDIRISINGHE**

D 22  
Transfer of  
Shares by  
H. A. Vincent  
Soyso to  
E. A. P.  
Edirisinghe  
13-8-60

Transfer Fee: Rs. 2.50

No.....

Approved.....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Henedige Arthur Vincent Soysa of No. 18, Charles Drive, Colombo 3 in consideration of the sum of Rupees Five Thousand and Eighty Five only Rs. 5085/- only paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Sixty (60) shares numbered 1159-1218 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

20 And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Sixty shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness: Sgd. H. C. H. SOYSA

Witness: Sgd. M. RANGANATHAN

Sgd. H. A. V. SOYSA  
*Transferor.*

Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

D 23  
Transfer of  
Shares by H. C.  
Ebert Soysa to  
E. A. P.  
Edirisinghe--  
13-8-60

D 23

**TRANSFER OF SHARES BY H. C. EBERT SOYSA  
TO E. A. P. EDIRISINGHE**

Transfer Fee: Rs. 2/50

No. ....

Approved.....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Henedige Cyril Ebert Soysa of Siriyantha, Panadura in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty only Rs. 4,237/50 paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (50) shares numbered 879—928 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness: Sgd. H. C. H. SOYSA

Witness: Sgd. M. RANGANATHAN

Sgd. H. C. E. SOYSA  
*Transferor.*

Sgd. E. A. PREMALAR EDIRISINGHE  
*Transferee.*

D 24

**TRANSFER OF SHARES BY H. S. DILANJAN SOYSA  
TO E. A. P. EDIRISINGHE**

D 24  
Transfer of  
Shares by  
H. S. Dilanjan  
Soyso to E. A. P.  
Edirisinghe—  
13-8-60

Transfer Fee: Rs. 2/50

No.....

Approved.....

*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Henedige Srinath Dilanjan Soysa of No.7, Greenlands Avenue, Colombo 5 in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty only, 4,237/50 paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (50) shares, numbered 829—878 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, administrators and Assigns, subject to the several conditions on which I hold the same.

20 And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness: Sgd. H. C. H. SOYSA

Witness: Sgd. M. RANGANATHAN

Sgd. H. S. DILANJAN SOYSA  
*Transferor.*

Sgd. E. A. PREMALAR EDIRISINGHE  
*Transferee.*



**D 25**

D 25  
Transfer of  
Shares by H. S.  
Wilmot Soysa  
to E. A. P.  
Edirisinghe—  
13-8-60

**TRANSFER OF SHARES BY H. S. WILMOT SOYSA  
TO E. A. P. EDIRISINGHE**

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Henedige Sonnie Wilmot Soysa of "Sriantha", Panadura in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty only paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (50) shares numbered 1219—1268 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the Several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : Sgd. M. RANGANATHAN

Sgd. H. S. W. SOYSA  
*Transferor.*

Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

D 27

**TRANSFER OF SHARES BY H. T. MICHAEL SOYSA  
TO E. A. P. EDIRISINGHE**

D 27  
Transfer of  
Shares by H. T.  
Michael Soysa  
to E. A. P.  
Edirisinghe—  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10 **TRANSFER OF SHARES**

I, Henedige Teuton Michael Soysa of Sriyantha, Panadura in consideration of the sum of Rupees Two Thousand One Hundred and Eighteen and cents Seventy Five only Rs. 2,118/75 paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (25) shares numbered 1269—1293 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on  
20 which I hold the same.

And, I the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said (25) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : Sgd. M. RANGANATHAN

Sgd. H. C. E. SOYSA  
*Transferor.*  
Attorney for T. M. SOYSA

30

Sgd. E. A. PREMALAL EDIRISINGHE  
*Transferee.*

D 29  
Transfer of  
shares by P. L.  
Annette Soysa  
to E. A. P.  
Edirisinghe—  
13-8-60

D 29

**TRANSFER OF SHARES BY P. L. ANNETTE SOYSA  
TO E. A. P. EDIRISINGHE**

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....  
*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

**TRANSFER OF SHARES**

10

I, Palamandadige Lily Annette Soysa of No. 7, Greenlands Avenue, Colombo 5 in consideration of the sum of Rupees Four Thousand Two Hundred and Thirty Seven and cents Fifty 4237/50 paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (50) shares numbered 729 — 778 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe. Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

20

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said (50) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. H. C. H. SOYSA

Witness : Sgd. M. RANGANATHAN

Sgd. LILY SOYSA  
*Transferor.*

Sgd. E. A. PREMLAL EDIRISINGHE  
*Transferee.*

30

**D 31****TRANSFER OF SHARES BY H. SELVANATHAN  
TO E. A. P. EDIRISINGHE**

D 31  
Transfer of  
Shares by  
H. Selvanathan  
to E. A. P.  
Edirisinghe—  
13-8-60

Transfer Fee : Rs. 2/50.

No. ....

Approved. ....

*Director.*

**THE JUPITER CIGARETTE & TOBACCO COMPANY  
LIMITED**

10

**TRANSFER OF SHARES**

I, Harriharan Selvanathan of 15, Alfred House Avenue, Colombo in consideration of the sum of Rupees One Thousand Six Hundred and Ninety Five only Rs. 1,695/- paid me by (in block letters please) Edirisinghe Arachige Premlal Edirisinghe of 122, Ward Place, Colombo do hereby transfer to the said Edirisinghe Arachige Premlal Edirisinghe (20) shares numbered 3126—3145 in THE JUPITER CIGARETTE & TOBACCO COMPANY LIMITED, standing in my name in the books of the said Company, to hold unto the said Edirisinghe Arachige Premlal Edirisinghe Heirs, Executors, Administrators and Assigns, subject to the several conditions on which I hold the same.

And I, the said Edirisinghe Arachige Premlal Edirisinghe do hereby agree to take the said Twenty (20) shares subject to the same conditions.

As witness our hands the Thirteenth day of August One Thousand Nine Hundred and Sixty.

Witness : Sgd. C. P. SIVADAS

Witness : Sgd. M. RANGANATHAN

Sgd. S. HARIHARAN  
*Transferor.*

Sgd. E. A. PREMLAL EDIRISINGHE  
*Transferee.*

D 49  
Receipt given  
in respect of  
Six cheques—  
13-8-60

**D 49**

**RECEIPT GIVEN IN RESPECT OF SIX CHEQUES**

Received the following :—

1. Cheque in favour of Messrs P. I. H. De Mel and transfer form for 175 shares.
2. Cheque in favour of Muwanwella Estate Co. Ltd, transfer form for 62 shares.
3. Cheque in favour of Wilfred Manual De Mel transfer form for 125 shares
4. Cheque in favour of V. M. de Mel and transfer form for 25 shares.
5. Cheque in favour of Elgin Fernando and transfer form for 50 shares. 10
6. Cheque in favour of H. C. Peiris and transfer form for 63 shares.

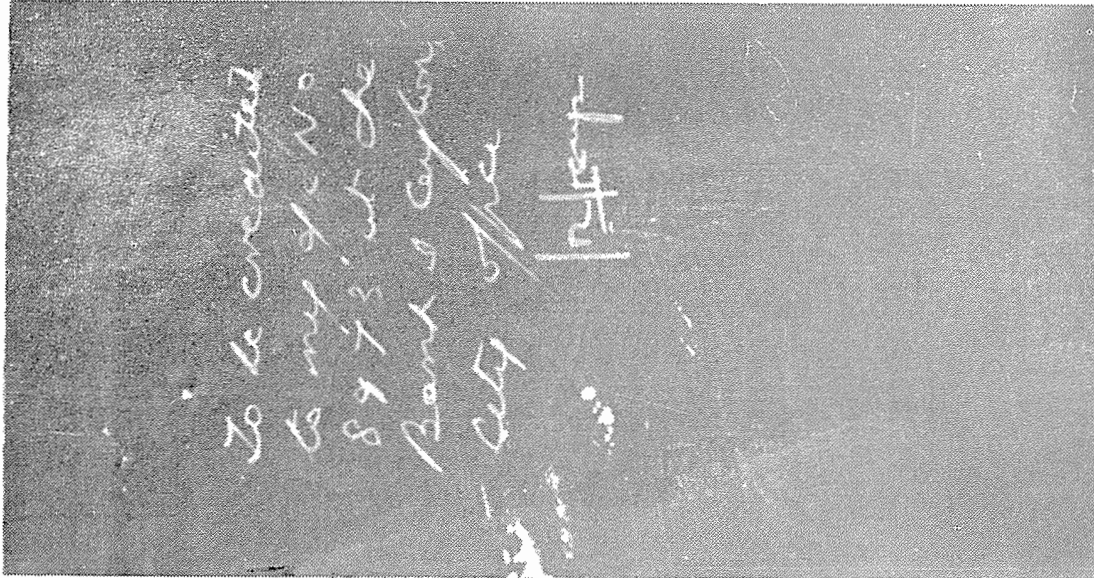
I shall get them signed from respective parties and return the same to you.

Sgd. H. R. FERNANDO  
13-8-60.

D 54

NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 6,780/-  
IN FAVOUR OF H. I. H. SOYSA

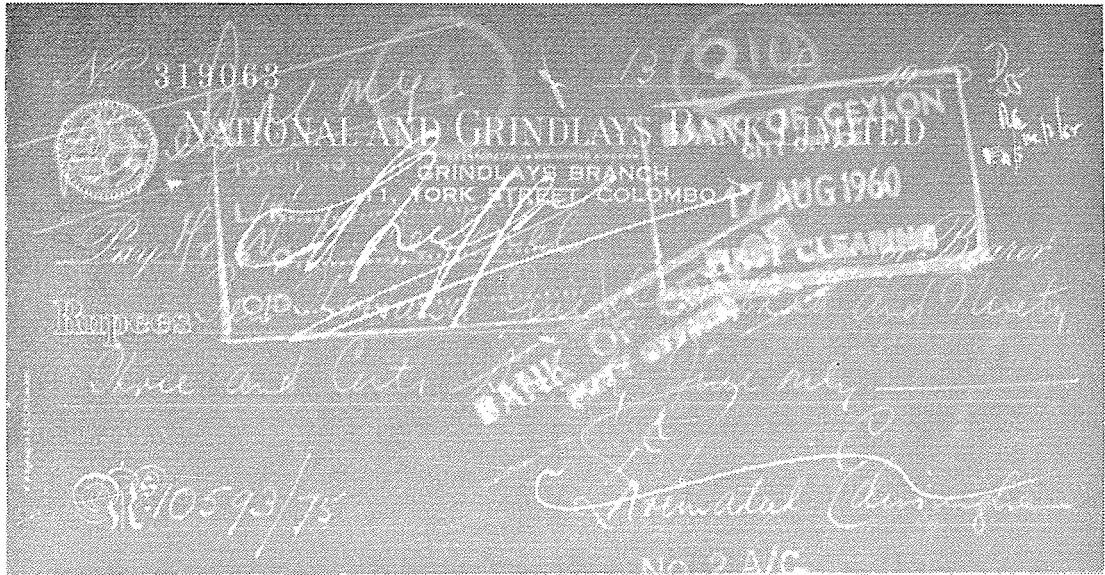
D 54  
National and  
Grindlays Bank  
Cheque for Rs.  
6780/- in favour  
of H. I. H.  
Soyso—  
13-8-60



D 55

D 55  
National and  
Grindlays Bank  
Cheque for Rs.  
10,593/75 in  
favour of  
W. M. de Mel  
13-8-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 10,593/75  
IN FAVOUR OF W. M. De MEL**



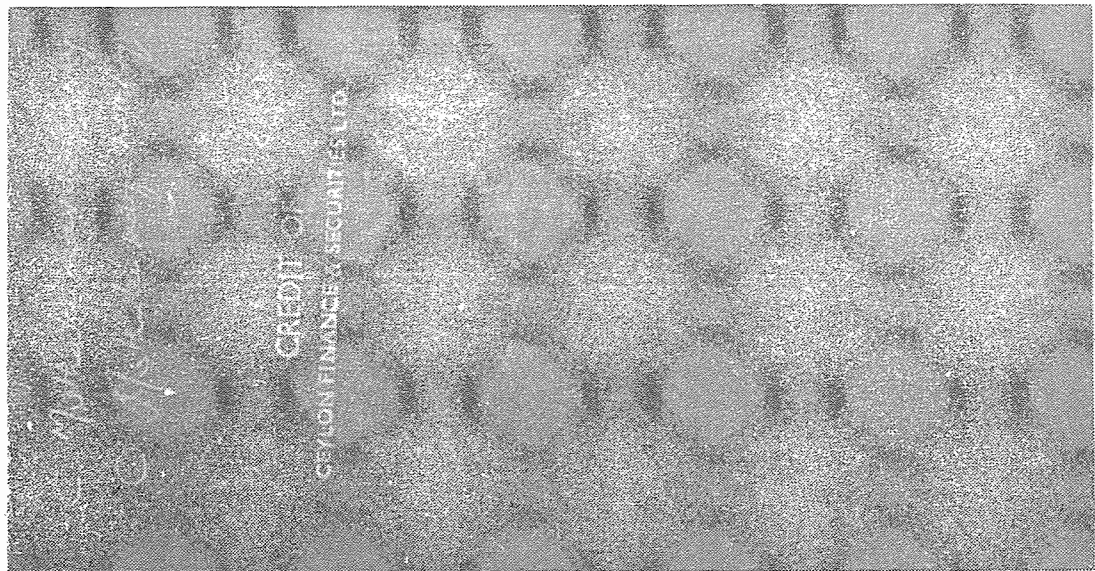
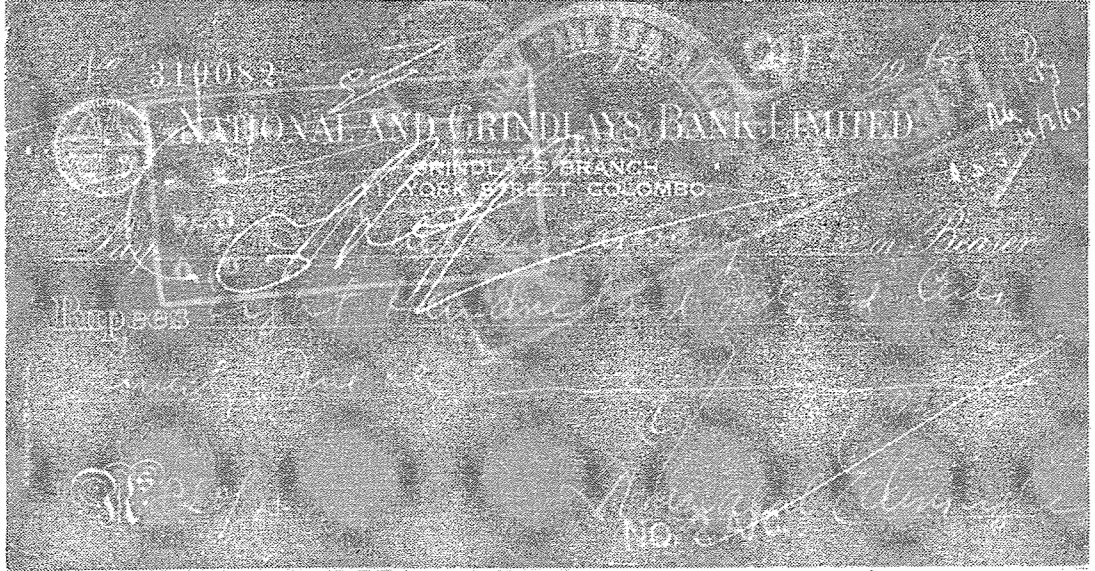






D 58  
National and  
Grindlays Bank  
Cheque for Rs.  
840/75 in favour  
of C. Muthu-  
kumaraswamy -  
13-8-60

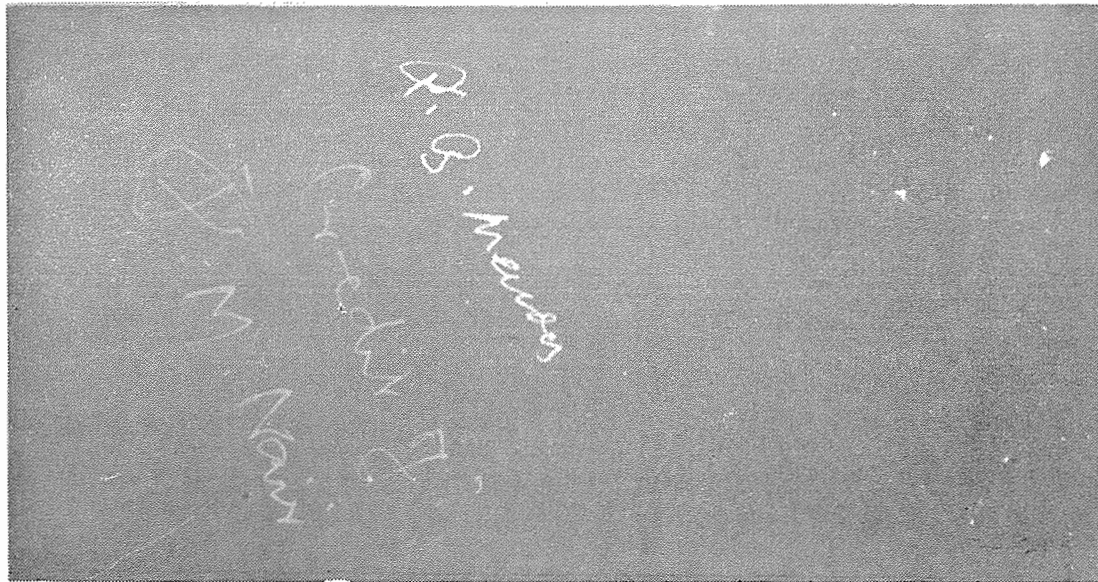
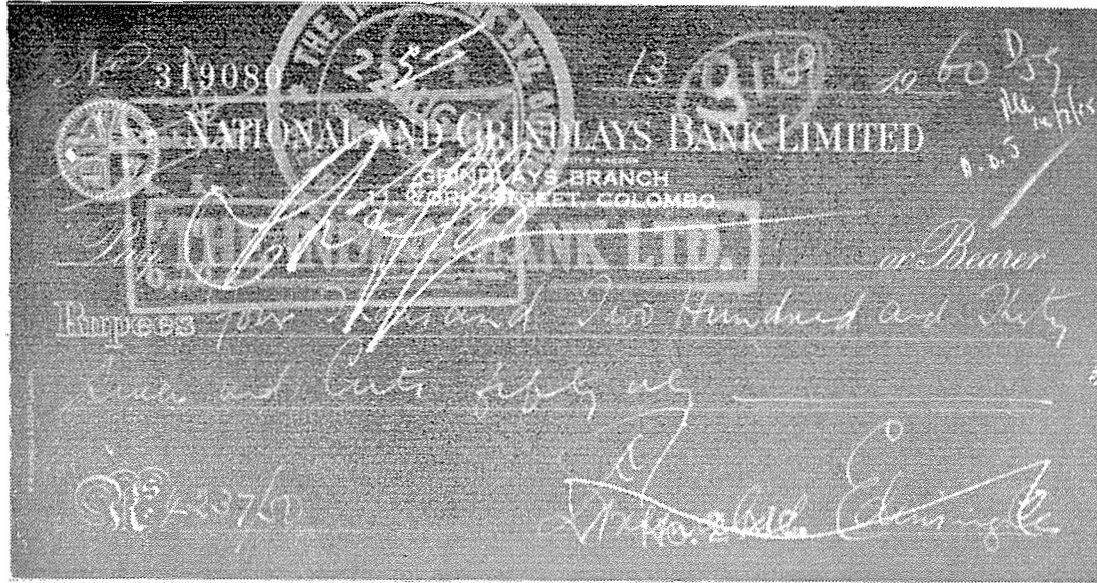
**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 840/75  
IN FAVOUR OF C. MUTHUKUMARASWAMY**



D 59

NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 4,237/50  
IN FAVOUR OF R. G. MENON

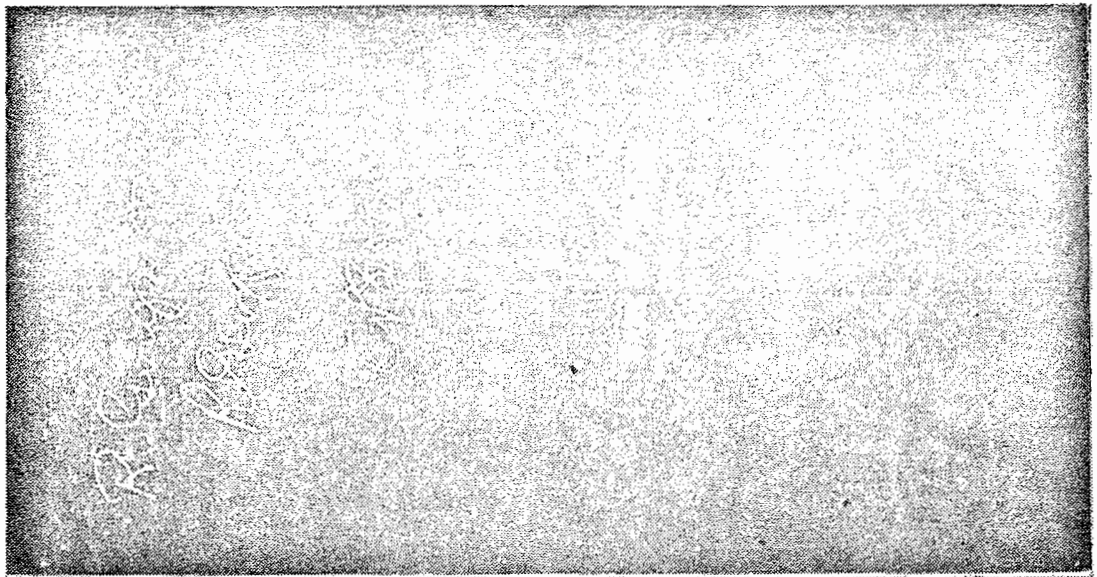
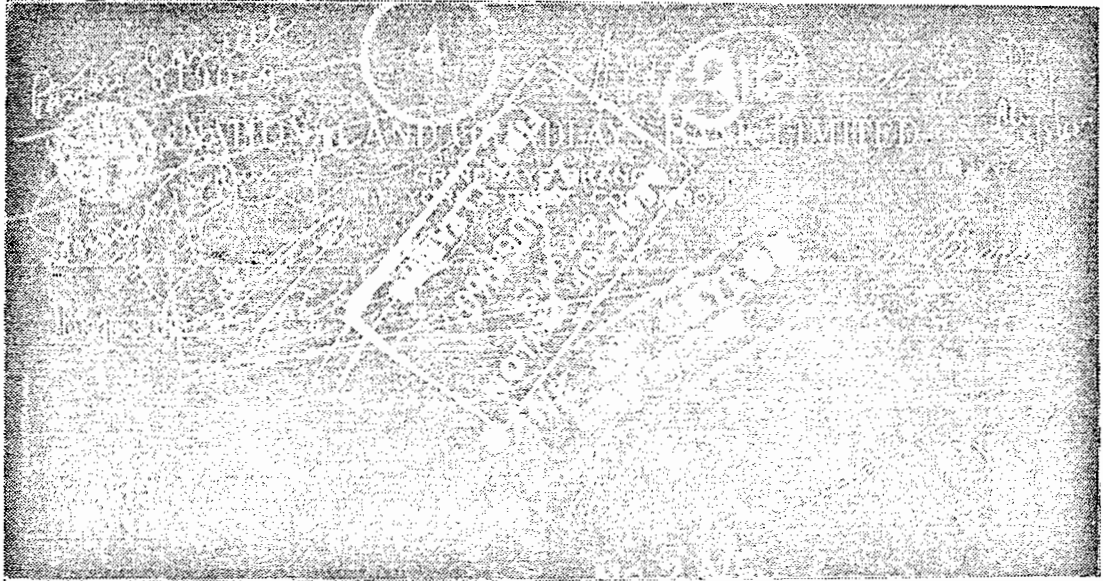
D 59  
National and  
Grindlays Bank  
Cheque for Rs.  
4237/50 in  
favour of R. G.  
Menon—  
13-8-60



D 61  
National and  
Grindlays Bank  
Cheque for Rs.  
84/75 in favour  
of R. Giraj San-  
kar—13-8-60

D 61

**NATIONAL AND GRIDLAYS BANK CHEQUE FOR RS. 84/75  
IN FAVOUR OF R. GIRAJ SANKAR**

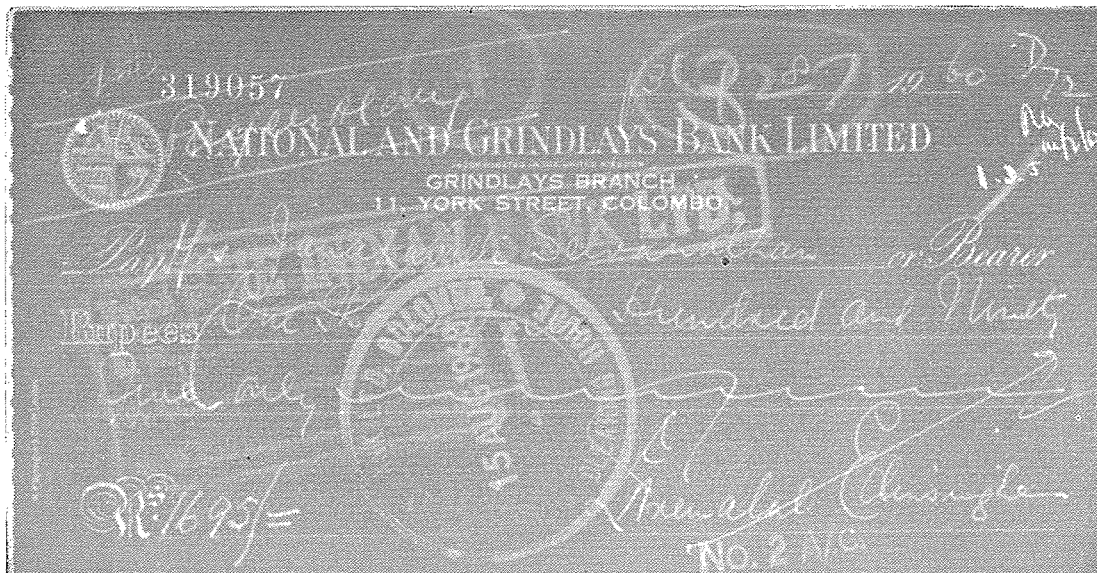




D 72

NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 1,695/-  
IN FAVOUR OF J. SELVANATHAN

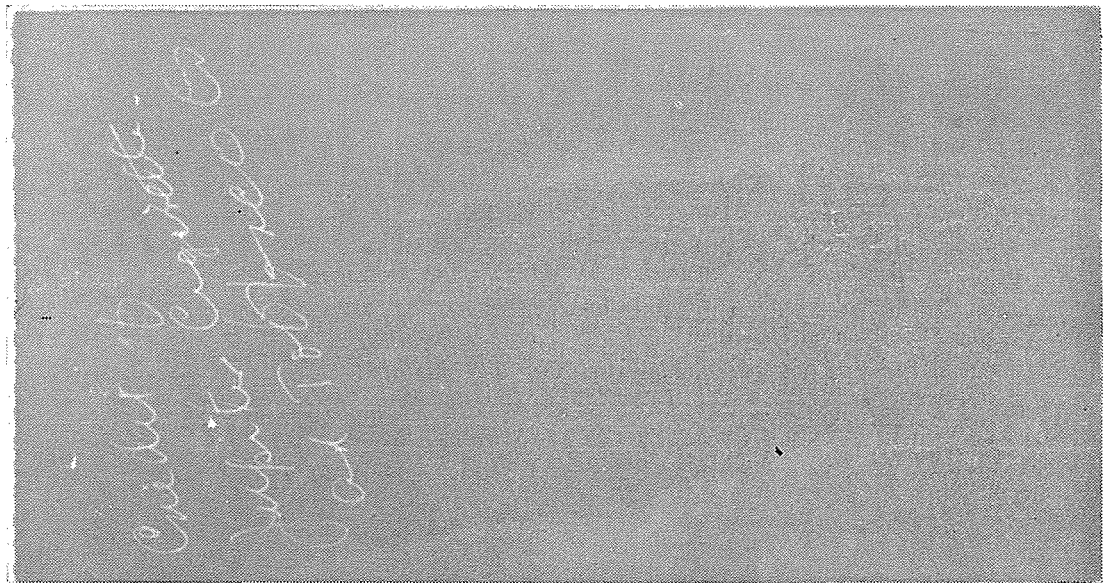
D 72  
National and  
Grindlays Bank  
Cheque for Rs.  
1695/- in favour  
of J.Selvanathan  
13-8-60



D 57

D 57  
National and  
Grindlays Bank  
Cash Cheque for  
Rs. 5,000/-,  
19-8-60

NATIONAL AND GRINDLAYS BANK CASH CHEQUE FOR  
RS. 5,000/-



281

**P 9**

**PARTICULARS OF A MORTGAGE OR CHARGE CREATED  
BY THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

P 9  
Particulars of a  
Mortgage or  
Charge created  
by the Jupiter  
Cigarette and  
Tobacco Co.  
Ltd. - 22-8-60

Companies Form 13.

No. of Company : PVS 1645

**The Companies Ordinance, No. 51 of 1938**

**PARTICULARS OF A MORTGAGE OR CHARGE CREATED  
BY A COMPANY REGISTERED IN CEYLON**

(Pursuant to Section 78)

10 Name of Company : **THE JUPITER CIGARETTE AND TOBACCO  
COMPANY LIMITED.**

The fee payable on registration of a mortgage or charge is Rs. 5/-, if the amount secured does not exceed Rs. 2000/-, and Rs. 10/- if it exceeds Rs. 2000/-.

---

Presented by :

E. A. P. Edirisinghe  
No. 122, Ward Place,  
Colombo 7.

PARTICULARS OF A MORTGAGE OR CHARGE CREATED BY THE JUPITER CIGARETTE AND TOBACCO COMPANY LIMITED,  
A COMPANY REGISTERED IN CEYLON

1 Date and Description of the instrument creating or evidencing the Mortgage or Charge (a)	2 Amount Secured by the Mortgage or Charge	3 Short Particulars of the Property Mortgaged or Charged	4 Names, Addresses and Descriptions of the Mortgagees or persons entitled to the Charge	5 (b) Amount or rate per cent of the commission allowance or discount (if any) paid or made either directly or indirectly by the Company to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally, or procuring or agreeing to procure subscriptions, whether absolute or conditional for any of the Debentures including in this Return.
13th August 1960 Mortgage created by Bond No. 432 attested by Mr. Ranganathan of Colombo, Notary Public	Rupees One hundred and twenty five Thousand (Rs. 125,000/-)	Land with buildings thereon and machinery installed therein belonging to the Company and situated at Lady Catherine Group, Ratmalana	1. Doctor Henneidge Charles Henry Soysa of No. 7, Greenlands Avenue Colombo - 5 (Medical Practitioner) 2. H. R. Fernando & Co. (Ceylon) Limited of No. 64, Lauries Road, Colombo 4 and 3. Ceylon Finance and Securities Limited of No. 282, Grandpass Road, Colombo - 14.	None

(a) A Description of the Instrument, e.g., "Mortgage," "Debenture", &c., as the case may be, should be given.

Note: As to delivery of the Instrument itself with these Particulars see Section 78 (1) of the Companies Ordinance No. 51 of 1958.

As to delivery in certain cases of (1) a copy of the Instrument or, (ii) a copy of the Instrument and a prescribed form of certificate - see Section 78 (3) and (5).

Signature: Sgd. Illegibly in English.

Designation of position in relation to the Company. Director.

Dated the 22nd day of August 1960.

(b) The rate of interest payable under the terms of the Debentures should not be entered,

NATIONAL AND GRINDLAYS BANK CASH CHEQUE FOR  
RS. 7,000/-

D 65  
National and  
Grindlays Bank  
Cash Cheque for  
Rs. 7,000/-  
30-8-60



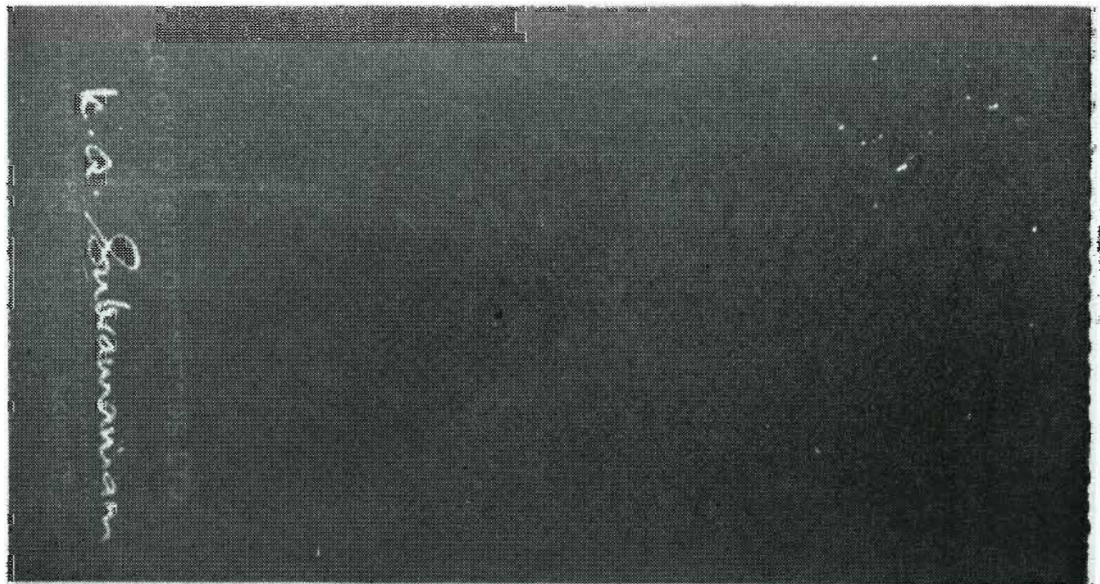
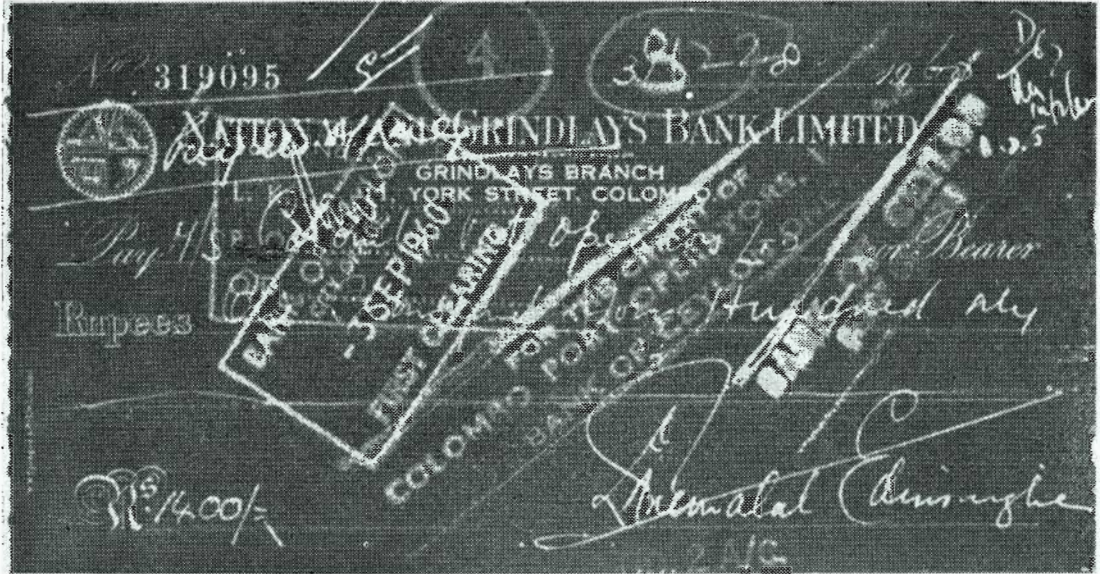


D 67  
National and  
Grindlays Bank  
Cheque for Rs.  
1,400/- in favour  
of Colombo  
Port Operators,  
Ltd.—  
31-8-60

284

D 67

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 1,400/-  
IN FAVOUR OF COLOMBO PORT OPERATORS LTD.**

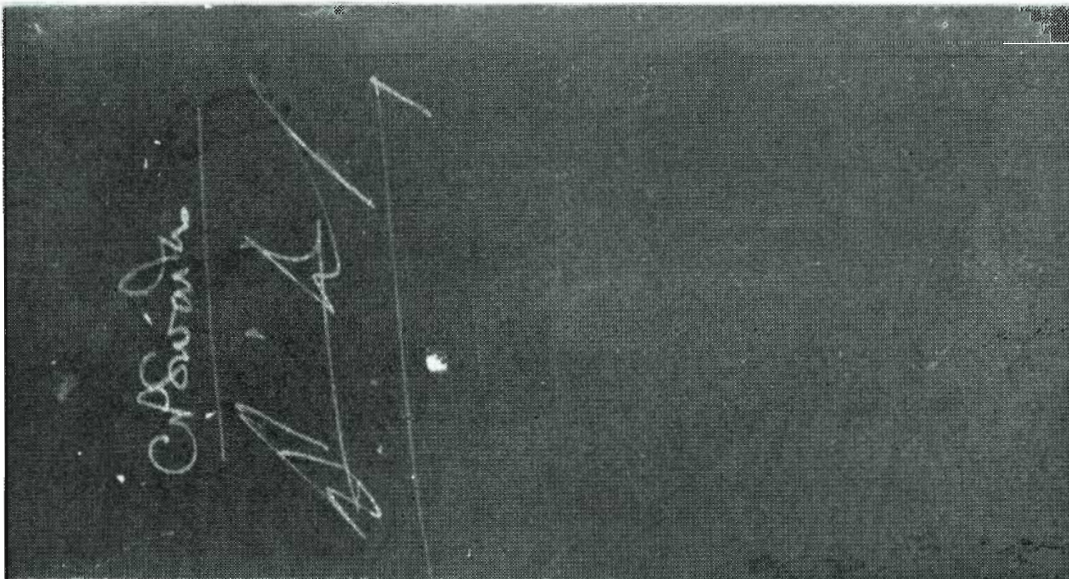
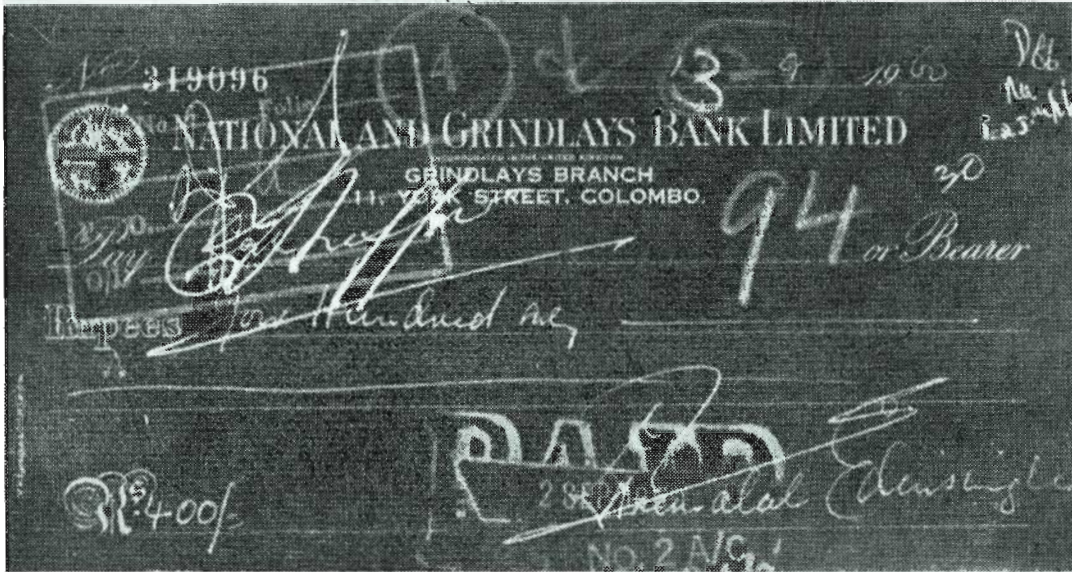




D 66

NATIONAL AND GRINDLAYS BANK CASH CHEQUE FOR  
RS. 400/-

D 66  
National and  
Grindlays Bank  
Cash Cheque for  
Rs. 400/-,  
1-9-60

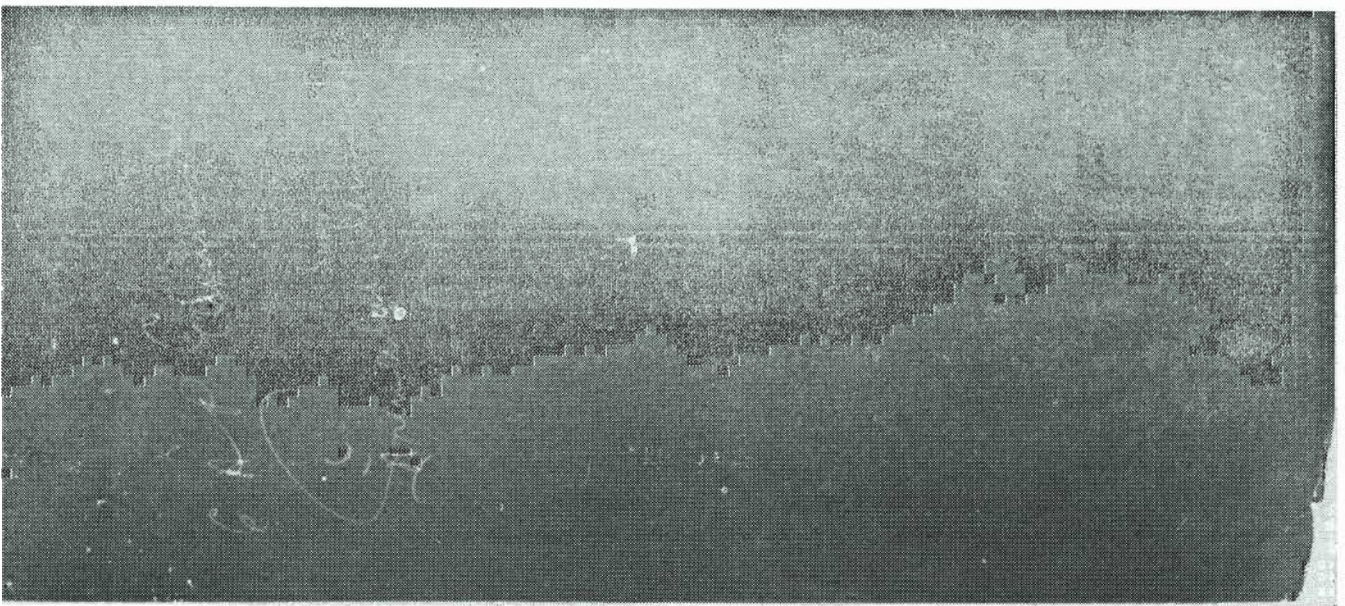
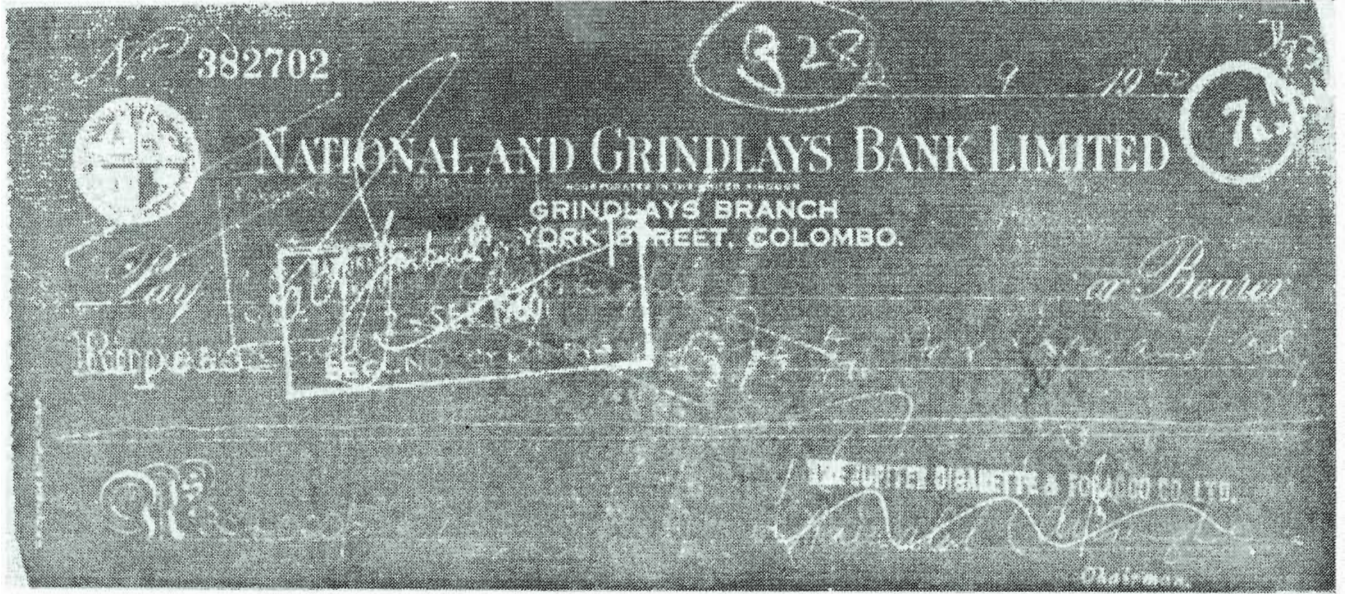




D 73

D 73  
National and  
Grindlays Bank  
Cheque for Rs.  
354,000/- in  
favour of E.A.P.  
Edirisinghe—  
2-9-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 354,000/-  
IN FAVOUR OF E. A. P. EDIRISINGHE**

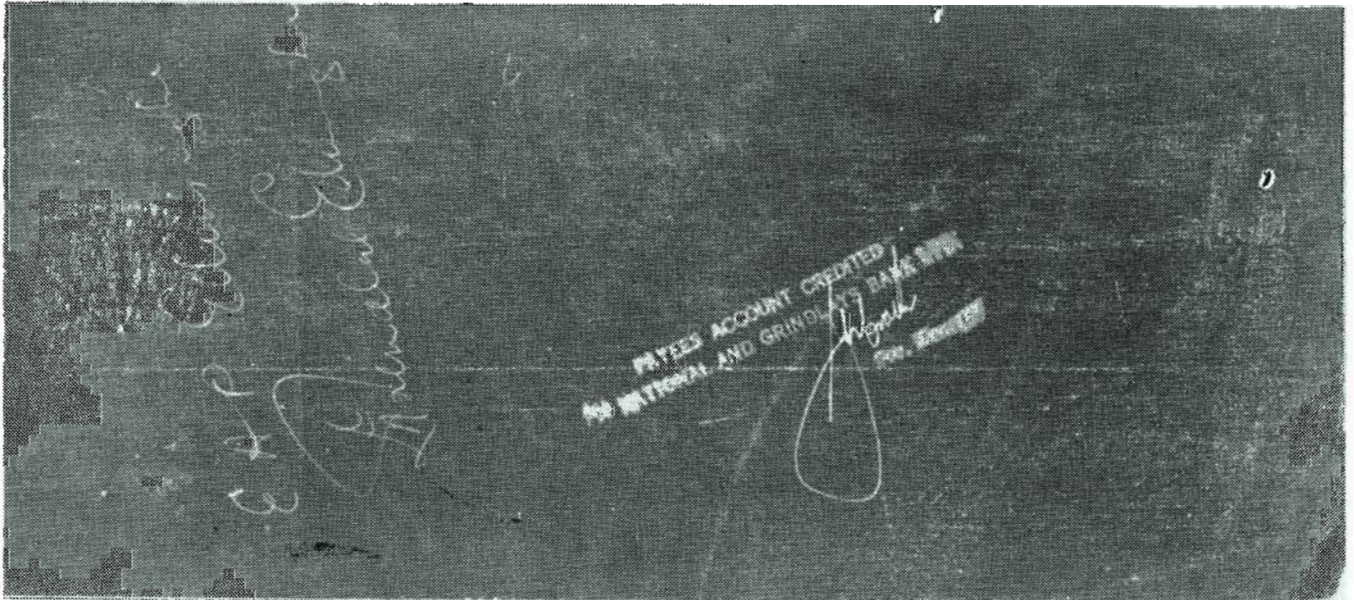
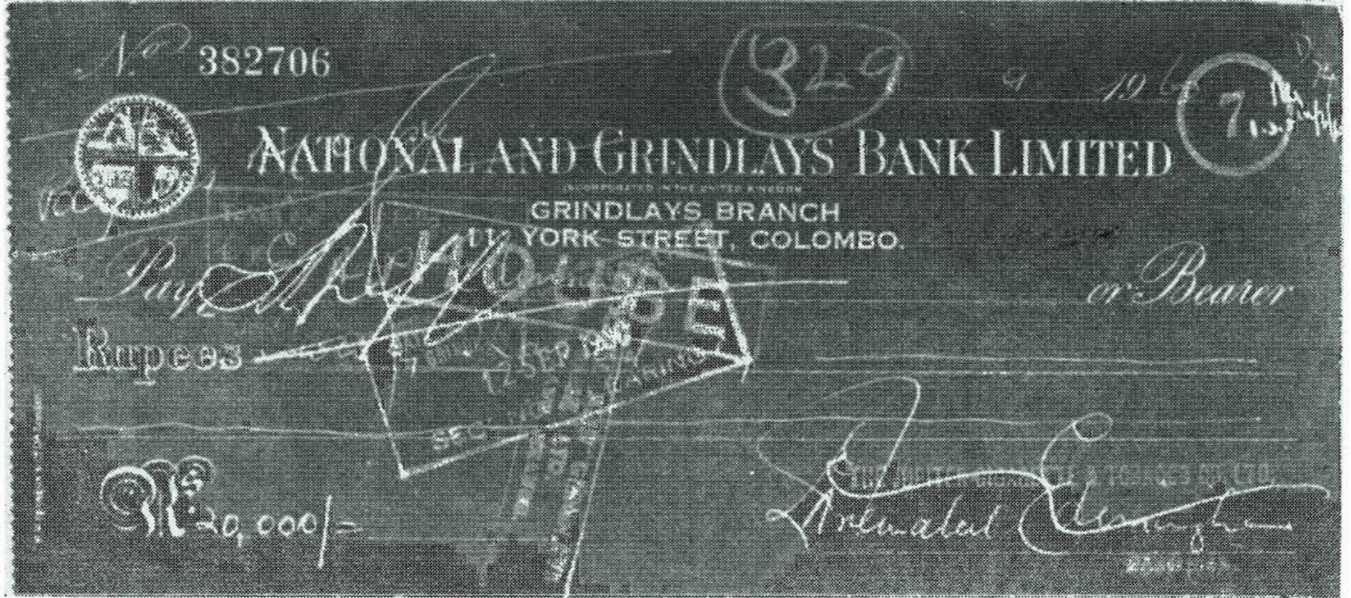




D 74

NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 20,000/-  
IN FAVOUR OF E. A. P. EDIRISINGHE

D 74  
National and  
Grindlays Bank  
Cheque for Rs.  
20,000/- in  
favour of E.A.P.  
Edirisinghe—  
12-9-60

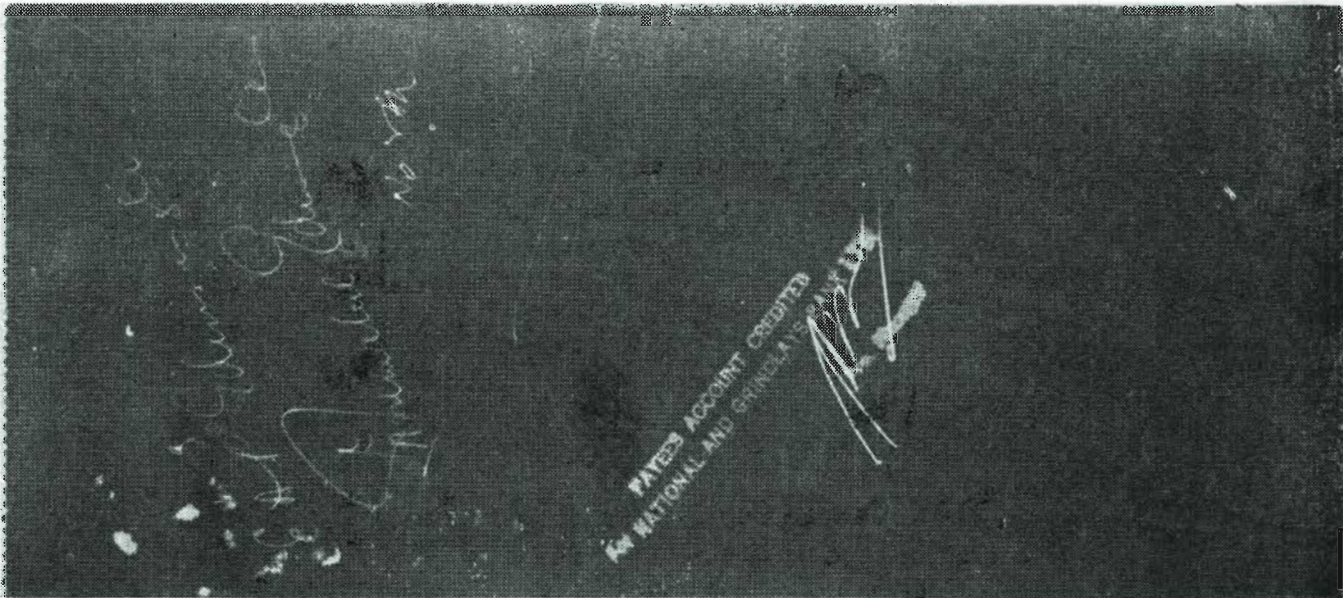
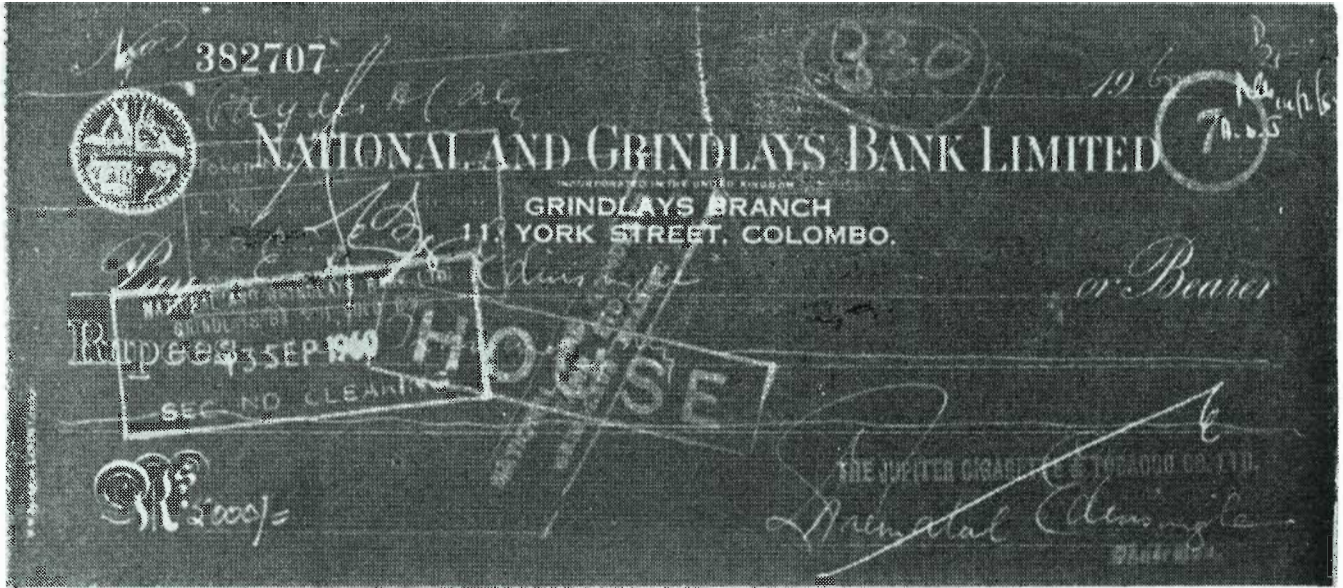




D 75

D 75  
National and  
Grindlays Bank  
Cheque for Rs.  
5,000/- in favour  
of E. A. P. Ediri-  
singhe—  
13-9-60

**NATIONAL AND GRINDLAYS BANK CHEQUE FOR RS. 5,000/-  
IN FAVOUR OF E. A. P. EDIRISINGHE**



**D 36**

**LETTER SENT TO E. A. P. EDIRISINGHE BY  
DR. H. C. H. SOYSA**

D 36  
Letter sent to  
E. A. P. Ediri-  
singhe by Dr.  
H. C. H. Soysa  
7-11-60

DR. H. C. H. SOYSA

7, Greenlands Avenue,  
Colombo 5.  
7th November, 1960.

Dear Mr. Edirisinghe,

Herewith enclosed a receipt for Rs. 617.50. I have treated this as interest for the period 13th September to 13th Nov: 1960, as Mr. Selvanathan has already given me Rs. 318.75 as interest for the period 13th August 1960 to 13th September 1960.

Wishing you every success

Yours sincerely,  
Sgd: Illegibly.

E. A. P. EDIRISINGHE ESQ.,

**D 35**

**RECEIPT FOR RS. 617/50 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

D 35  
Receipt for  
Rs. 617/50  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
14-11-60

20 DR. H. C. H. SOYSA

7, Greenlands Avenue,  
Colombo 5.  
14th November, 1960.

Received with thanks from E. A. P. Edirisinghe of No. 122, Ward Place, Colombo 8, a sum of Rs. 617/50 as interest for the period 13th September, 1960 to 13th November, 1960 on Mortgage Bond No. 432 of 13-8-60, as my share of interest.

Sgd. Illegibly.

on 10 cts. stamps.

290

D 3  
Receipt for  
Rs. 227/50  
issued by H. R.  
Fernando & Co.  
Ltd., to E. A. P.  
Edirisinghe—  
18-11-60

D 3

**RECEIPT FOR RS. 227/50 ISSUED BY H. R. FERNANDO & CO. LTD.  
TO E. A. P. EDIRISINGHE**

H. R. FERNANDO & CO. LTD.

No. 446

131, Dam Street,  
Colombo 12.  
18th November, 1960.

Received with thanks from Mr. E. A. P. Edirisinghe 122, Ward Place, Borella, Colombo 8 the sum of Rupees Two Hundred and Twenty 10 Seven and Cents Fifty only on account of Interest on Bond No. 432 of 13-8-60 Rs. 21,000 from 13-8 60 to 13-10-60 @  $6\frac{1}{2}\%$ .

H. R. FERNANDO & CO. LTD.  
Sgd. Illegibly  
Managing Director  
on 10 cts. stamp.

Rs. 227/50.

D 37

D 37  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
22-12-60

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

20

DR. H. C. H. SOYSA

7, Greenlands Avenue,  
Colombo 5.  
22-12-1960.

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 308/75 being the interest due on Mortgage Bond No. 432 of 13-8-60 for the period 13th November 1960 to 13th December 1960.

Sgd. Illegibly  
22. 12. 60  
on 10 cts. stamp.

30

291

D 4

**RECEIPT FOR RS. 113/75 ISSUED BY H. R. FERNANDO & CO. LTD.  
TO E. A. P. EDIRISINGHE**

H. R. FERNANDO & CO. LTD.

No. 462

131, Dam Street,  
Colombo 12,  
27th December 1960.

D 4  
Receipt for  
Rs. 113/75  
issued by H. R.  
Fernando & Co.  
Ltd., to E. A. P.  
Edirisinghe—  
27-12-60

Received with thanks from E. A. P. Edirisinghe Esq., No. 122, Ward Place,  
10 Borella, Colombo 8 the sum of Rupees One Hundred and Thirteen and Cents  
Seventy Five only on account of Int. on Mortgage Bond No. 432 of 13-8-60  
for Rs. 21,000/- from 13-10-60 to 13-11-60 @ 6½%.

13-12-60.

H. R. FERNANDO & CO. LTD.  
Sgd. (Illegibly)  
*Managing Director*  
on 10 cts. stamp.

Rs. 113/75.

P 7

**ANNUAL RETURN OF THE JUPITER CIGARETTE &  
TOBACCO CO. LTD.**

P 7  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co. Ltd.  
13-1-61

Copy application No. 58004.  
of 3-10-64.

No. of Company : PVS.1645.

Companies Form 63

Registration Fee Rs. 5/-.  
Payable in Cash, Cheque,  
Money Order or Postal Order.

The Companies Ordinance No. 51 of 1938 (Cap. 145)

Form of Annual Return of a Company Having a share capital.

30 (As required by Part IV of the Companies Ordinance No. 51 of 1938.)

(Annual return of the Jupiter Cigarette & Tobacco Company Limited  
made up to the Thirteenth day of January 1961 being the fourteenth day after  
the date of the first or only Ordinary General Meeting in 1960.)

The address of the Registered Office of the Company is as follows :—

No. 122, Ward Place, Colombo 7.

Delivered for filing by C. P. Sivadas.



P 7  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-61  
—Continued

### Summary of Share Capital and Shares

(Page 2)

1.	Nominal Share Capital Rs. 1,500,000/- divided into 15,000 shares of	.. ..	Rs. 100 each	
2.	Total Number of Shares taken up to the thirteenth day of January 1961 being the date of the Return (which number must agree with the total shown in the list as held by existing members)	.. ..	3241	
3.	Number of Shares issued subject to payment wholly in cash	.. ..	3241	10-
4.	Number of Shares issued as fully paid up otherwise than in cash	.. ..	Nil	
5.	Number of Shares issued as partly paid up to the extent of.....per share otherwise than in cash.	.. ..	Nil	
6.	Number of.....Shares (if any) issued at a discount	..	Nil	
7.	Number of..... Shares (if any) issued at a discount.	..	Nil	
8.	Total amount of discount on the issue of shares which has not been written off at the date of this return.		Nil	
9.	There has been called up on each of..... Shares.	..	Rs. 100/-	
10.	There has been called up on each of..... Shares.	..	Nil	20-
11.	There has been called up on each of..... Shares.	..	Nil	
12.	Total amount of calls received, including payments on application and allotment.	.. ..	Rs. 324,100/-	
13.	Total amount (if any) agreed to be considered as paid on ..... Shares which have been issued as fully paid up otherwise than in cash	.. ..	Nil	
14.	Total amount (if any) agreed to be considered as paid on ..... Shares which have been issued as partly paid up to the extent of ..... per Share otherwise than in cash.		Nil	
15.	Total amount of Calls unpaid.	.. ..	Nil	30-

(Page 3)

16.	Total amount of the sums (if any) paid by way of Commission in respect of any Shares or Debentures or allowed by way of Discount in respect of any Debentures since the date of the last Return.	..	Nil	
17.	Total number of shares forfeited.	.. ..	Nil	
18.	Total amount paid (if any) on shares forfeited	.. ..	Nil	
19.	Total amount of Shares for which Share Warrants to bearer are outstanding.	.. ..	Nil	
20.	Total amount of Share Warrants to bearer issued and surrendered respectively since the date of the last Return	.. {	Issued Nil	40
		.. }	Surrendered Nil	

- |           |  |  |
|-----------|--|--|
| 21.       | Number of Shares comprised in each Share Warrant to bearer .. .. .   | Nil  |
| 22.       | Total amount of the indebtedness of the Company in respect of all mortgages and charges of the kind which are required to be registered with the Registrar of Companies under the Companies Ordinance, No. 51 of 1938. | Rs. 125,000/-  |
| 10<br>23. | Name and address of the auditor, or the names and addresses of the auditors of the company at the date of the Return.  | Messrs.<br>Satchithananda Schockman<br>& Wijeratne & Co.,<br>P. O. Box No. 918<br>Colombo. |

The Return must be signed at the end by the Director or by the Manager or Secretary of the Company.

(Page 4) *Copy of Last Audited Balance Sheet of the Company*

*Note :* Except where the Company is (1) a "Private Company" within the meaning of Section 27 of the Companies Ordinance, No. 51 of 1938, this Return must include a written copy, certified by a Director or by the Manager or Secretary of the Company to be a true copy, of the last balance sheet which has been audited by the Company's Auditors (including every document required by law to be annexed) thereto together with a copy of the report of the auditors thereon (certified as aforesaid), and if any such balance sheet is in a language other than English there must also be annexed to it a translation thereof in English certified in the prescribed manner to be a correct translation. If the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

(Page 5) *Certificate*

A. I certify that the Company has not since the date of the last annual return issued any invitation to the public to subscribe for any Shares or Debentures of the company.

*Signature:* Sgd, Illegibly.  
*Secretary.*

B. Should the number of members of the Company exceed fifty the following certificate is also required :— I certify that the excess of Members of the Company above fifty consists wholly of persons who are in the employment of the Company and/or of persons who, having been formerly in the employment of the Company were while in such employment, and have continued after the determination of such employment to be members of the Company.

*Signature:* .....  
(State whether Director or Secretary.....)

(Pages 6 & 7)

PARTICULARS OF THE \* DIRECTORS OF THE JUPITER CIGARETTE & TOBACCO COMPANY LTD. AT THE DATE OF THE ANNUAL RETURN

† The present Christian Name or Names & Surname	Any former Christian Name or Names & Surname	Nationality	Nationality of origin (if other than the present Nationality)	Usual Residential Address	‡ Other Business occupation if any, if none, state so.
Edirisinghe Arachchige Premial Edirisinghe	None	Citizen of Ceylon	British	122, Ward Place, Colombo.	Merchant
Edirisinghe Arachchige Samel Appuhamy	None	Citizen of Ceylon	British	1666, Cotta Road, Rajagiriya.	Merchant
Udalage Podihamine .	None	Citizen of Ceylon	British	1666, Cotta Road, Rajagiriya.	None

\* 'Director' includes any person who occupies the position of a director by whatever name called, and any person in accordance with whose directions or instructions the directors of a Company are accustomed to act.

† In the case of a Corporation its corporate name and registered or principal office should be shown.

‡ In the case of an individual who has no business occupation but holds any other directorship or directorships, particulars of that directorship or of someone of those directorships must be entered.

(Pages 8 &amp; 9)

List of Persons holding Shares in the JUPITER CIGARETTE & TOBACCO Company Limited, on the Thirteenth day of January 1962, and of Persons who have held Shares therein at any time since the date of the last Return, or (in the case of the 1st Return) of the incorporation of the Company, showing their Names & Addresses and an Account of the Shares so held.

N.B.— If the names in this list are not arranged in alphabetical order, an Index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

P 7  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-61  
—Continued

Folio in Register, Ledger, containing particulars	Names, Addresses and Nationality				Account of Shares				Remarks	
	Surname (i.e. last name)	Other names (i.e. names denoted by Initials)	Address	Nationality	*Number of Shares held by existing members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of last Return or (in the case of first Return) of the incorporation of the Company, by persons, who have ceased to be Members		
						No.†	Date of Registration of Transfer	No.†		Date of Registration of Transfer
	Edirisinghe Arachige Edirisinghe	Premlal	122, Ward Place, Colombo.	Merchant	3239	2	16.8.1960			Bought Shares from existing members, 16.8.60, transferred one share to Mr. E. A. S. Appuhami and one share to Mrs. U. Podihamine
	Edirisinghe Arachige	Samel Appuhami	1666, Cotta Rd., Rajagiriya.	Merchant	1					Bought on 16.8.60
	Udalage	Podihamine	1666, Cotta Road, Rajagiriya.	House wife	1					Bought on 16.8.60
	Chapman	Hector Frederic	153, Temple Road, Mt. Lavinia.	Merchant				250	16.8.1960	Transferred to Mr. E. A. P. Edirisinghe
	Chathampalli Poovadan	Sivadas	22, Mount Pleasant Colombo.	Merchant				125	16.8.1960	do
	Chelliah	Mutukumaraswamy	15, Alfred House Avenue, Colombo.	Merchant				10	16.8.1960	do
	De Mel	Phyllis Irene Henriatte	Glenmore, Moratuwa.	House wife				175	16.8.1960	do
	De Mel	Wilfred Manuel	Samudrasiri Uyana, Moratuwa.	Landed Prop.				125	16.8.1960	do
	De Mel	Vincent Manuel	Supreme Knitting Co., Moratuwa.	Merchant				25	16.8.1960	do

Signature:.....

State whether Director or Manager or Secretary.....

\* The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

† When the shares are of different classes these columns may be sub-divided so that the number of each class held, or transferred, may be shown separately. Where any Shares have been converted into Stock, the amount of Stock held by each Member must be shown.

‡ The date of Registration of each Transfer should be given as well as the Number of Shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the Transferee, but the name of the Transferee, may be inserted in the "Remarks" column immediately opposite the particulars of each Transfer.



P 7  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.  
Ltd.,  
13-1-61  
—Continued

(Pages 10 &amp; 11)

Share List of JUPITER CIGARETTE &amp; TOBACCO Company Limited, as on 13th January 1962.

Folio in Register, Ledger, containing particulars	Names, Addresses and Nationality				Account of Shares				Remarks	
	Surname (i.e. last name)	Other names (i.e. names denoted by Initials)	Address	Nationality	*Number of Shares held by existing members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of last Return or (in the case of First Return) of the incorporation of the Company, by persons who have ceased to be Members		
						No.†	Date of Registration of Transfer	No.†		Date of Registration of Transfer
	Dias	Ponnehnedige Ebert	Siriyanta Panadura	Merchant				200	16.8.1960	do
	Fernando	Hubert Richard	64, Lauries Road, Colombo 4	Merchant				150	16.8.1960	do
	Fernando	Elgin	Sarikamulla Estate, Moratuwa	Merchant				50	16.8.1960	Transferred to Mr. E.A.P. Edirisinghe
	Hariharan	Selvanathan	15, Alfred House Avenue, Colombo	Student				20	16.8.1960	do
	Janakavalli	Selvanathan	15, Alfred House Avenue, Colombo	House wife				20	16.8.1960	do
	Kanapathy	Selvanathan	15, Alfred House Avenue, Colombo	Merchant				640	16.8.1960	do
	Manoharan	Selvanathan	15, Alfred House Avenue, Colombo	Student				20	16.8.1960	do
	The Estate Co., Ltd. Muanwella		74, Flower Road, Colombo.	Merchant				62	16.8.1960	do
	Menon	Ravunniarath Balan	22, Mount Pleasant Colombo.	Merchant				50	16.8.1960	do
	Pieris	Hitakani Chidrupa	74, Flower Road, Colombo.	Merchant				63	16.8.1960	do
	Ramalingam Jaikishan	Girijashanker	50, Nelson Place, Colombo.	Engineer				1	16.8.1960	do
	Sasilekha	Selvanathan	15, Alfred House, Avenue, Colombo.	Student				20	16.8.1960	do
	Sellan Chetty	Kanapathy Chetty	15, Alfred House, Avenue, Colombo	Merchant				70	16.8.1960	do
	Sithalekshmi	Sivadas	22, Mount Pleasant Colombo.	House wife				25	16.8.1960	do
	Soysa	Hennedige Arthur Vincent	Siriyantha Panadura	Merchant				60	16.8.1960	do
	Soysa	Hennedige Charles Henry	7, Greenlands Avenue, Colombo.	Med. Practitioner				75	16.8.1960	do
	Soysa	Hennedige Cyril Ebert	Siriyantha Panadura	Merchant				50	16.8.1960	do
	Soysa	Hennedige Gayathri Siroma	7, Greenlands Avenue, Colombo	House wife				50	16.8.1960	do
	Soysa	Hennedige Ida Harriette	Siriyantha Panadura	House wife				80	16.8.1960	do
	Soysa	Hennedige Gayatri Chandramalee	Siriyantha Panadura	House wife				50	16.8.1960	do

Signature:—.....

State Whether Director or Manager or Secretary

Share List of JUPITER CIGARETTE & TOBACCO Company Limited, as on the Thirteenth day of January 1962.

Folio in Register, Ledger, containing particulars	Names, Addresses and Nationality				Account of Shares				Remarks	
	Surname (i.e. last name)	Other names (i.e. names denoted by initials)	Address	Nationality	* Number of Shares held by existing members at date of Return †	† Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members	No. †	Date of Registration of Transfer		† Particulars of Shares Transferred since the date of last Return or (in the case of First Return) of the incorporation of the Company, by persons who have ceased to be Members
	Soysa	Palamandadige Lillianette	7, Greenlands Ave., Colombo.	House Wife				50	16.8.1960	do
	Soysa	Hennedige Preman Nandalal	7, Greenlands Ave., Colombo.	Student				50	16.8.1960	do
	Soysa	Hennedige Sonny Wilmot	Siriyantha Panadura.	Merchant				50	16.8.1960	do
	Soysa	Hennedige Srinath Dilanjan	7, Greenlands Ave. Colombo.	Student				50	16.8.1960	do
	Soysa	Hennedige Tuton Michal	Siriyantha, Panadura.	Merchant				25	16.8.1960	do
	Soysa	Hennedige Wimal Siriyani	Siriyantha, Panadura.	Student				50	16.8.1960	do

Sgd. Illegibly.  
Manager.

True Copy  
Sgd. ....

Asst. Registrar of Companies.  
11.10.1964

Seal.

D 39  
 Receipt for  
 Rs. 308/75  
 issued to  
 E. A. P. Ediri-  
 singhe by Dr.  
 H. C. H. Soysa  
 23-3-61

D 39

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
 BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
 Colombo 5,  
 23. 3. 1961.

**Mortgage Bond No. 432 of 13. 8. 60  
 attested by M. Ranganathan, N.P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 10  
 308/75 being the interest due on the above Mortgage Bond for the period 13th  
 January 1961 to 13th February 1961.

Sgd. Illegibly  
 on 10 cts. Stamp.

D 38  
 Receipt for  
 Rs. 308/75  
 issued to E.A.P.  
 Edirisinghe by  
 Dr. H. C. H.  
 Soysa—  
 19-4-61

D 38

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
 BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
 Colombo 5, 20  
 19. 4. 1961.

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan, N.P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs.  
 308/75 being interest due on the above Mortgage Bond for the period 13th  
 Feb. 1961 to 13th March 1961.

Sgd. Illegibly  
 on a 10 cts. stamp.

P 17  
 Letter sent to  
 Dr. H. C. H.  
 Soysa by the  
 Chairman of  
 the Jupiter  
 Cigarette &  
 Tobacco Co.Ltd.  
 29-5-61

P 17

**LETTER SENT TO DR. H. C. H. SOYSA BY THE CHAIRMAN 30  
 OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

E. A. P. Edirisinghe

No. 77/22, Castle Street,  
 Borella,  
 Colombo, 29th May, 1961.

Dr. H. C. H. Soysa,  
Greenlands Avenue,  
Havelock Town,  
Colombo.

P 17  
Letter sent to  
Dr. H. C. H.  
Soysa by the  
Chairman of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
29-5-61  
—Continued

Dear Sir,

**Mortgage Bond No. 432 of 13.8.60**  
**attested by M. Ranganathan, N.P.**

With reference to the above, I am forwarding herewith a Cheque for Rs. 308/75 being interest due from 13th April up to 13th May 1961.

10 Please acknowledge receipt.

Yours faithfully,  
The Jupiter Cigarette & Tobacco Co. Ltd.  
Sgd. E. A. PREMLAL EDIRISINGHE  
*Chairman*

D 6

**LETTER SENT TO E. A. P. EDIRISINGHE BY**  
**H. R. FERNANDO & CO. LTD**

D 6  
Letter sent to  
E. A. P. Ediri-  
singhe by H. R.  
Fernando & Co.  
Ltd.,  
31-5-61

H. R. FERNANDO & CO. LTD.  
Importers & Exporters.

*Estates:*

20 City Mission Building  
131, Dam Street,

Kallimulla Estate  
Nattandiya  
Alutwatta,  
Badalgama  
Ekalayaya Group,  
Katana,  
Colombo, 31st May, 1961.

E. A. P. Edirisinghe Esq.,  
77/22, Castle Street,  
Borella.

30 Dear Sir,

**Mortgage Bond No. 432 of 13.8.60**  
**attested by M. Ranganathan, N. P.**

We have for acknowledgement your letter of the 29th May, enclosing your cheque for Rs. 113/75, which amount is said to be the interest due from 13th April 1961 up to 13th May 1961.

To our regret we find that the information about the true position of this account, as furnished by us in our letter of the 18th May, has not been taken into consideration in working up of the interest.



D 6  
Letter sent to  
E. A. P. Ediri-  
singhe by H. R.  
Fernando & Co.  
Ltd.,  
31-5-61  
—Continued

There is now two instalments each of Rs. 113/75 amounting to Rs. 227/50 still due on this account and we shall be glad if you will kindly send us a further cheque and oblige please.

Yours faithfully,  
H. R. FERNANDO & CO. LTD.

Sgd. H. R. FERNANDO  
Managing Director.

(Endorsement in ink)

Please check up the payment dates as furnished to you on our letter dated 18th May and correct the position. 10

D 42  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
20-6-61

D 42

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
Colombo 5,  
20. 6. 1961.

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan Esq., N. P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 20 308/75, being interest due on the above Mortgage Bond, for the period 13th April to 13th May 1961 and not from 13th May to 13th June 1961 as stated in your letter of the 17th inst.

Sgd. Illegibly  
on a 10 cts. stamp.

D 41  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
13-7-61

D 41

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue, 30  
Colombo 5,  
13. 7. 61

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan Esqr., N. P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 308/75 being interest due on the above Mortgage Bond, for the period 13th May to 13th June 1961.

Sgd. Illegibly  
on a 10 cts stamp.

301

**D 43**

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
Colombo 5.  
21. 8. 1961

D 43  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa  
21-8-61

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan Esqr., N.P.**

10 Received with thanks from Mr. E.A.P. Edirisinghe the sum of Rs. 308/75  
being interest due on the above Mortgage Bond, for the period 13th June 1961  
to 13th July 1961.

Sgd. Illegibly  
on a 10 cts. stamp.

**D 5**

**RECEIPT FOR RS. 113/75 ISSUED TO E. A. P. EDIRISINGHE  
BY H. R. FERNANDO & CO. LTD.**

H. R. Fernando & Co. Ltd.,  
131, Dam Street,  
Colombo 12 - 28th August 1961

D 5  
Receipt for  
Rs. 113/75  
issued to E.A.P.  
Edirisinghe by  
H. R. Fernando  
& Co. Ltd.  
28-8-61

20

Received with thanks from E.A.P. Edirisinghe Esq., No. 122, Ward  
Place, Colombo 7, the sum of Rupees One Hundred and Thirteen and cents  
Seventy Five only on account of Interest on Mortg. Bond No. 432 - 3.6.61  
to 13.7.61.

H. R. Fernando & Co. Ltd.

Sgd. Illegibly  
on a 10 cts. Stamp.

Rs. 113.75.

**D 44**

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
Colombo 5.  
19th Sept. 1961.

D 44  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
19-9-61

30

D 44  
 Receipt for  
 Rs. 308/75  
 issued to E.A.P.  
 Edirisinghe by  
 Dr. H. C. H.  
 Soysa—  
 19-9-61  
 —Continued

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan Esqr., N.P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 308.75 being interest due on the above Mortgage Bond, for the period 13th July 1961 to 13th August 1961.

Sgd. Illegibly.  
 on a 10. cts stamp.

D 45  
 Receipt for  
 Rs. 308/75  
 issued to E.A.P.  
 Edirisinghe by  
 Dr. H. C. H.  
 Soysa—  
 19-10-61

D 45

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
 BY DR. H. C. H. SOYSA**

10

19th October 1961.

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan, N.P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 308/75 being interest due on the above Mortgage Bond, for the period 13th August 1961 to 13th September 1961.

Sgd. Illegibly.  
 on a 10 cts. stamp.

P 21  
 Letter sent to  
 Dr. H. C. H.  
 Soysa by the  
 Chairman of the  
 Jupiter Cigarette  
 & Tobacco Co.  
 Ltd.  
 18-11-61

P 21

**LETTER SENT TO DR. H. C. H. SOYSA BY THE CHAIRMAN  
 OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

20

E. A. P. Edirisinghe

No. 122, Ward Place,  
 Colombo 7,  
 18th November, 1961.

Dr. H. C. H. Soysa,  
 Greenlands Avenue,  
 Colombo 5.

Sir,

**Mortgage Bond No. 432 of 13.8.1960  
 attested by M. Ranganathan, N.P.**

30

With reference to the above, I am forwarding herewith a cheque for Rs. 308/75 being interest due from 13th September up to 12th October 1961.

Please acknowledge receipt.

Yours faithfully,  
 The Jupiter Cigarette & Tobacco Co. Ltd  
 Sgd. Illegibly.  
 Chairman.

D 47

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
Colombo 5.  
22nd November, 1961.

D 47  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
22-11-61

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan, N.P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of  
10 Rs. 308/75 being interest due on the above Mortgage Bond, for the period  
13th September 1961 to 12th October 1961.

Sgd. Illegibly.  
on a 10 cts. stamp.

D 46

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
Colombo 5.  
25th December 1961.

D 46  
Receipt for  
Rs. 308/75  
issued to E.A.P.  
Edirisinghe by  
Dr. H. C. H.  
Soysa—  
25-12-61

**Mortgage Bond No. 432 of 13.8.1960  
attested by M. Ranganathan, N. P.**

20

Received with thanks from Mr. E. A. P. Edirisinghe, the sum of Rs.  
308/75 being interest due on the above Mortgage Bond for the period 13th  
October 1961 to 13th November 1961.

Sgd. Illegibly.  
on a 10 cts stamp.

P 6

**ANNUAL RETURN OF THE JUPITER CIGARETTE &  
TOBACCO CO. LTD.**

P 6  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co. Ltd.  
13-1-62

30 Copy application No. 58004  
of 3.10.64

No. of Company: PVS 1645.

The Companies Ordinance No. 51 of 1938 (Cap. 145)

Form of Annual Return of a Company Having a Share Capital.

P 6  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co. Ltd.  
13-1-62  
—Continued

(Annual Return of the Jupiter Cigarette & Tobacco Co. Ltd. made up to the Thirteenth day of January 1962 being the fourteenth day after the date of the first or only Ordinary General Meeting in 1961).

The Address of the Registered Office of the Company is as follows:—

No. 122, Ward Place, Colombo 7.

Delivered for filing by: C. P. Sivadas.

(Page 2.)

### SUMMARY OF SHARE CAPITAL AND SHARES

1. Nominal Share Capital Rs. 1,500,000/- Divided into 15000 shares of .. .. .	Rs. 100/-each	10
2. Total Number of Shares taken up to the 13th day of January being the date of the Return (which number must agree with the total shown in the list as held by existing members) .. .. .	3241	
3. Number of Shares issued subject to payment wholly in cash	3241	
4. Number of Shares issued as fully paid up otherwise than in cash .. .. .	Nil	
5. Number of Shares issued as partly paid up to the extent of .....,per share otherwise than in cash .. .. .	Nil	
6. Number of .....,Shares (if any) issued at a discount	Nil	20
7. Number of .....,Shares (if any) issued at a discount .. .. .	Nil	
8. Total amount of discount on the issue of Shares which has not been written off at the date of this Return .. .. .	Nil	
9. There has been called up on each of 3241 Shares .. .. .	Rs. 100.00	
10. There has been called up on each of nil Shares .. .. .	Rs. Nil	
11. There has been called up on each of .....,Shares .. .. .	Nil	
12. Total amount of Calls received, including payments on application and allotment .. .. .	Rs. 324,100/-	

13.	Total amount (if any) agreed to be considered as paid on ..... shares which have been issued as fully paid up otherwise than in cash .. .. . Rs.	Nil
14.	Total amount (if any) agreed to be considered as paid on ..... shares which have been issued as partly paid up to the extent of ..... per share otherwise than in cash .. .. . Rs.	Nil
15.	Total amount of Calls unpaid .. .. . Rs.	Nil

P 6  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-62  
—Continued

(Page 3)

10	16.	Total amount of the sums (if any) paid by way of commi- ssion in respect of any shares or Debentures or allowed by way of Discount in respect of any Debentures since the date of the last return .. .. . Rs.	Nil
	17.	Total number of Shares forfeited .. .. . Rs.	Nil
	18.	Total amount paid (if any) on shares forfeited .. .. . Rs.	Nil
	19.	Total amount of Shares for which Share Warrants to bearer are outstanding .. .. . Rs.	Nil
	20.	Total amount of Share Warrants to bearer issued and surrendered respectively since the date of the last Return Issued .. .. . Rs.	Nil
20		Surrendered .. .. . Rs.	Nil
	21.	Number of Shares comprised in each Share Warrant to bearer .. .. . Rs.	Nil
	22.	Total amount of the indebtedness of the Company in res- pect of all mortgages and charges of the kind which are required to be registered with the Registrar of Companies under the Companies Ordinance No. 51 of 1938 .. .. . Rs.	125,000/-
30	23.	Name and address of the auditor, or the names and addresses of the auditors of the Company at the date of the Return.	

Satchithananda Schokman Wijeratne & Co.,  
P.O. Box 918,  
Colombo.

P 6  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co Ltd.  
13-1-62  
—Continued

The Return must be signed at the end by the Director or by the Manager or Secretary of the Company.

(Page 4)

*Copy of last Audited Balance Sheet of the Company.*

*Note:* Except where the Company is (1) a “Private Company” within the meaning of Section 27 of the Companies Ordinance, No. 51 of 1938, this Return must include a written copy, certified by a Director or by the Manager or Secretary of the Company to be a true Copy, of the last balance sheet which has been audited by the Company’s Auditors (including every document required by law to be annexed thereto) together with a Copy of the report of 10 the auditors thereon (certified as aforesaid), and if any such balance sheet is in a language other than English there must also be annexed to it a translation thereof in English certified in the prescribed manner to be a correct translation. If the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

(Page 5)

20

*Certificate*

A. I certify that the Company has not since the date of the last Annual Return issued any invitation to the public to subscribe for any Shares or Debentures of the Company.

Signature: Sgd. Illegibly.  
*Secretary.*

B. Should the number of Members of the Company exceed fifty the following Certificate is also required:— I certify that the excess of Members of the Company above fifty consists wholly of persons who are in the employment of the Company and/or of persons who, having been formerly in the employ- 30 ment of the Company were while in such employment, and have continued after the determination of such employment to be Members of the Company.

Signature.....  
State whether Director or  
Secretary.

(Pages 6 &amp; 7)

## PARTICULARS OF THE DIRECTORS\* OF THE JUPITER CIGARETTE &amp; TOBACCO COMPANY LTD. AT THE DATE OF THE ANNUAL RETURN

† The present Christian Name or Names & Surname	Any former Christian Name or Names or Surname	Nationality	Nationality of origin (if other than the present Nationality)	Usual Residential Address	‡ Other Business occupation if any, if none, state so.
1. Edirisinghe Arachchige Premal Edirisinghe	None	Citizen of Ceylon	British	122, Ward Place, Colombo.	Merchant
2. Edirisinghe Arachchige Sameel Appuhamy	None	Citizen of Ceylon	British	1666, Cotta Road, Rajagiriya.	Merchant
3. Udalage Podihamine	None	Citizen of Ceylon	British	1666, Cotta Road, Rajagiriya.	Merchant

\* 'Director' includes any person who occupies the position of a director by whatever name called, and any person in accordance with whose directions or instructions the directors of a Company are accustomed to act.

† In the case of a Corporation its corporate name and registered or principal office should be shown.

‡ In the case of an individual who has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some of those directorships must be entered.



(Pages 8 &amp; 9)

P 6  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-62  
—Continued

List of Persons holding Shares in the JUPITER CIGARETTE & TOBACCO Company Limited, on the Thirteenth day of January 1962, and of Persons who have held Shares therein at any time since the date of the last Return, or (in the case of the 1st Return) of the incorporation of the Company, showing their Names & Addresses and an Account of the Shares so held.

N.B.— If the names in this list are not arranged in alphabetical order, an Index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

Names, Addresses and Nationality					Account of Shares				Remarks	
Folio in Register, Ledger, containing particulars	Surname (i.e. last name)	Other names (i.e. names denoted by initials)	Address	Nationality	* Number of Shares held by existing members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of last Return or (in the case of first Return) of the incorporation of the Company, by persons, who have ceased to be Members		
						No.†	Date of Registration of Transfer	No.†		Date of Registration of Transfer
1	Edirisinghe Arachige	Premlal	122, Ward Place, Colombo	Merchant	1539	1700	30.12.61			Transferred
2	Edirisinghe Arachige	Samel Appuhamy	1666, Cotta Road, Rajagiriya	Merchant	1					
3	Udallage	Podihamine	1666, Cotta Road, Rajagiriya	Merchant	1					
4	Ahangama Thomma Hewage	David Rohan	122, Ward Place, Colombo	Merchant	100					Bought from Mr.E.A.P. Edirisinge
5	Pandunu Kumarage	Jayawardene	122, Ward Place, Colombo	Merchant	100					do
6	Galawalu Kanganamalage	Ratnapala	122, Ward Place, Colombo	Merchant	100					do
7	Thilana Gamage	Bandula Kusumasiri	122, Ward Place, Colombo	Merchant	100					do
8	Ilankoon Arachige	Wilbert	122, Ward Place, Colombo	Merchant	100					do
9	Titus	Abeysekera	122, Ward Place, Colombo	Merchant	100					do
10	Edirisinghe Arachige	Nandawathie	122, Ward Place, Colombo	Merchant	100					do

State whether Director or Manager or Secretary: .....

\* The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

† When the shares are of different classes these columns may be sub-divided so that the number of each class held, or transferred, may be shown separately. Where any Shares have been converted into Stock the amount of Stock held by each Member must be shown.

‡ The date of Registration of each Transfer should be given as well as the Number of Shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the Transferee, but the name of the Transferee, may be inserted in the "Remarks" column immediately opposite the particulars of each Transfer.

P 6  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-62  
—Continued

Folio in Register, Ledger, containing particulars	Names, Addresses and Nationality				Account of Shares				Remarks	
	Surname (i.e. last name)	Other names (i.e. names denoted by Initials)	Address	Nationality	*Number of Shares held by existing members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of last Return or (in the case of the first Return) of the incorporation of the Company, by persons who have ceased to be Members		
						No.†	Date of Registration of Transfer	No.†		Date of Registration of Transfer
11	Don Francisge	Gunasena	122, Ward Place, Colombo	Merchant	100					do
12	Gamini	Edirisinghe	122, Ward Place, Colombo	Merchant	100					Bought from Mr. E. A. P. Edirisinghe on 30. 12. 61
13	Somasiri	Edirisinghe	122, Ward Place, Colombo	Merchant	100					do
14	Upali	Edirisinghe	122, Ward Place, Colombo	Merchant	100					do
15	Kathiri Arachchige	Kumararatne	122, Ward Place, Colombo	Merchant	100					do
16	Wakwella	Kanthi	122, Ward Place, Colombo	Merchant	100					do
17	Cathampalli Poovadan	Sivadas	22, Mount Pleasant, Colombo	Merchant	100					do
18	De Silva	Somapala	122, Ward Place, Colombo	Merchant	100					do
19	Arambage	Sirisena	122, Ward Place, Colombo	Merchant	100					do
20	Edirisinghe Arachchige	Sirisena	122, Ward Place, Colombo	Merchant	100					do

3241

True Copy

Sgd. ....  
Assistant Registrar of Companies  
Colombo  
12-10-1964

(Seal)

Sgd. Illegibly.  
Manager

P 15

**LETTER SENT TO THE CEYLON FINANCE & SECURITIES LTD.  
BY THE CHAIRMAN OF THE JUPITER CIGARETTE & TOBACCO  
CO. LTD.**

E. A. P. Edirisinghe

122, Ward Place,  
Borella,  
Colombo 7,  
15th February 1962.

P 15  
Letter sent to  
the Ceylon  
Finance & Se-  
curities Ltd. by  
the Chairman  
of the Jupiter  
Cigarette &  
Tobacco Co. Ltd.  
15-2-62

10 Messrs. Ceylon Finance & Securities Ltd.,  
282, Grandpass Road,  
Grandpass,  
Colombo.

Dear Sir,

**Mortgage Bond No. 432 of 13. 8. 1960  
attested by M. Ranganathan, N. P.**

With reference to the above, I am forwarding herewith a Cheque for Rs.  
254/50 being interest due from 13th December 1961 up to 12th January 1962.

Please acknowledge receipt.

20

Yours faithfully,  
The Jupiter Cigarette & Tobacco Co. Ltd.  
Sgd. (Illegibly)  
*Chairman.*

P 18

**LETTER SENT TO DR. H. C. H. SOYSA BY THE CHAIRMAN  
OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

E. A. P. Edirisinghe

122, Ward Place,  
Borella,  
Colombo 7,  
15th Feb. 1962.

P 18  
Letter sent to  
Dr. H. C. H.  
Soyso by the  
Chairman of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
15-2-62

30

Dr. H. C. H. Soysa,  
Greenlands Avenue,  
Colombo 5.

Dear Sir,

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan, N.P.**

With reference to the above, I am forwarding herewith a Cheque for Rs.  
308/75 being interest due from 13th December 1961 upto 12th January 1962.

40 Please acknowledge receipt.

Yours faithfully,  
The Jupiter Cigarette & Tobacco Co. Ltd.  
Sgd. (Illegibly)  
*Chairman.*

D 34  
 Receipt for  
 Rs. 308/75  
 issued to E.A.P.  
 Edirisinghe by  
 Dr. H. C. H.  
 Soysa —  
 17-2-62  
 — ~~Continued~~

D 34

**RECEIPT FOR RS. 308/75 ISSUED TO E. A. P. EDIRISINGHE  
 BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa,

7, Greenlands Avenue,  
 Colombo 5, 17.2.1962.

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan N. P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs.  
 308/75 being interest due on the above Mortgage Bond, for the period 13th 10  
 December 1961 to 12th January 1962.

Sgd. (Illegibly)  
 on a 10 cts. stamp.

P 14

**LETTER SENT TO CEYLON FINANCE & SECURITIES LTD.  
 BY THE CHAIRMAN OF THE JUPITER CIGARETTE  
 & TOBACCO CO. LTD.**

P 14  
 Letter sent to  
 Ceylon Finance  
 & securities Ltd.  
 by the Chairman  
 of the Jupiter  
 Cigarette &  
 Tobacco Co.  
 Ltd.  
 17-3-62

E. A. P. Edirisinghe

Borella,  
 Colombo 7,  
 17th March 1962.

20

Messrs. Ceylon Finance & Securities Ltd.  
 Grandpass Road,  
 Grandpass,  
 Colombo.

Dear Sirs,

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan, N.P.**

With reference to the above, I am forwarding herewith a Cheque for Rs.  
 254/50 being interest due from 13th January up to 12th February, 1962. 30

Please acknowledge receipt.

Yours faithfully,  
 The Jupiter Cigarette & Tobacco Co. Ltd.

Sgd. Illegibly  
 Chairman.

Receipt No. 949 of 24.3.62.

P 19

**LETTER SENT TO DR. H. C. H. SOYSA BY THE CHAIRMAN  
OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

E. A. P. Edirisinghe

Borella,  
Colombo 7,  
17th March, 1962.

P 19  
Letter sent to  
Dr. H. C. H.  
Soyso by the  
Chairman of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.,  
17-3-62

Dr. H. C. H. Soysa,  
Greenlands Avenue,  
10 Colombo 5.

Dear Sir,

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan, N.P.**

With reference to the above, I am forwarding herewith a cheque for Rs. 308/75 being interest due from 13th January up to 12th February 1962.

Please acknowledge receipt.

Yours faithfully,  
The Jupiter Cigarette & Tobacco Co. Ltd.

Sgd. Illegibly  
Chairman.

20

P 20

**LETTER SENT TO DR. H. C. H. SOYSA BY THE CHAIRMAN  
OF THE JUPITER CIGARETTE & TOBACCO CO. LTD.**

E. A. P. Edirisinghe.

122, Ward Place,  
Borella,  
Colombo 7,  
9th June, 1962.

P 20  
Letter sent to  
Dr. H. C. H.  
Soyso by the  
Chairman of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.,  
9-6-62

Dr. H. C. H. Soysa,  
30 Greenlands Avenue,  
Colombo 5.

Dear Sir,

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan, N. P.**

With reference to the above, I am forwarding herewith a Cheque for Rs. 308/75 being interest due from 13th March up to 12th April, 1962.

Please acknowledge receipt.

Yours faithfully,  
The Jupiter Cigarette & Tobacco Co. Ltd.

Sgd. Illegibly  
Chairman.

40

D 40  
 Receipt for  
 Rs. 308/75  
 issued to E.A.P.  
 Edirisinghe by  
 Dr. H. C. H.  
 Soysa—  
 10-8-62

D 40

**RECEIPT FOR RS. 308/75 ISSUED TO E.A.P. EDIRISINGHE  
 BY DR. H. C. H. SOYSA**

Dr. H. C. H. Soysa

7, Greenlands Avenue,  
 Colombo 5.  
 10th August, 1962.

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan, N.P.**

Received with thanks from Mr. E. A. P. Edirisinghe the sum of Rs. 10  
 308/75 being interest due on the above Mortgage Bond for the period 13th  
 April 1962 to 12th May 1962.

Sgd. Illegibly  
 on a 10 cts. stamp.

P 12

P 12  
 Letter sent to  
 Ceylon Finance  
 & Securities  
 Ltd. by the  
 Chairman of the  
 Jupiter Cigarette  
 & Tobacco Co.  
 Ltd.,  
 30-8-62

**LETTER SENT TO CEYLON FINANCE & SECURITIES LTD. BY  
 THE CHAIRMAN OF THE JUPITER CIGARETTE & TOBACCO  
 CO. LTD.**

E. A. P. Edirisinghe

122, Ward Place, 20  
 Borella,  
 Colombo 7,  
 30th August, 1962.

Messrs. Ceylon Finance & Securities Ltd.,  
 Grandpass Road,  
 Grandpass,  
 Colombo.

Dear, Sirs,

**Mortgage Bond No. 432 of 13.8.60  
 attested by M. Ranganathan, N.P.**

30

With reference to the above, I am forwarding herewith a Cheque for Rs.  
 254/50 being interest due from 13th May up to 12th June 1962.

Please acknowledge receipt.

Yours faithfully,  
 The Jupiter Cigarette & Tobacco Co. Ltd.

Sgd. Illegibly  
 Chairman.

Receipt No. 1430 of 31. 10. 62.



**ANNUAL RETURN OF THE JUPITER CIGARETTE &  
TOBACCO CO. LTD.**

P 8  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-63

Copy application No. 58004 of 3.10.64.

No. of Company: Pvs. 1645.

The Companies Ordinance No. 51 of 1938 (Cap. 145)

Annual Return of the Jupiter Cigarette and Tobacco Co. Ltd. made up to the 13th day of January 1963 being the fourteenth day after the date of the first or only Ordinary General Meeting in 1962.

10 The Address of the Registered Office of the Company is as follows:

Lady Catherine Group,  
Ratmalana,  
Mt. Lavinia.

Delivered for filing by: E. A. P. Edirisinghe.

(Page 2)

*Summary of Share Capital and Shares*

1.	Nominal Share Capital Rs. 1500000/- divided into 15000 Shares of .. .. .	Rs.	100/- each
20 2.	Total Number of Shares taken up to the 13th day of January 1963 being the date of the Return (which number must agree with the total shown in the list as held by existing members).	.. .. .	3241
3.	Number of Shares issued subject to payment wholly in cash .. .. .	.. .. .	3241
4.	Number of shares issued as fully paid up otherwise than in cash .. .. .	.. .. .	Nil
5.	Number of shares issued as partly paid up to the extent of .. . . . per share otherwise than in cash .. .. .	.. .. .	Nil
6.	Number of <i>nil</i> shares (if any) issued at a discount .. .. .	.. .. .	Nil
30 7.	Number of <i>nil</i> shares (if any) issued at a discount .. .. .	.. .. .	Nil
8.	Total amount of discount on the issue of Shares which has not been written off at the date of this return .. .. .	.. .. .	Nil
9.	There has been called up on each of 3241 shares .. .. .	Rs.	100/-
10.	There has been called up on each of <i>nil</i> shares .. .. .	.. .. .	

P 8  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co. Ltd.  
13-1-63  
—Continued

11.	There has been called up on each of <i>nil</i> shares ..		
12.	Total amount of calls received, including payments on application and allotment .. .. . Rs.	324,100/-	
13.	Total amount (if any) agreed to be considered as paid on .. ..... Shares which have been issued as fully paid up otherwise than in cash .. .. .	Nil	
14.	Total amount (if any) agreed to be considered as paid on .. ..... Shares which have been issued as partly paid up to the extent of ..... per share otherwise than in cash ..	Nil	
15.	Total amount of Calls unpaid. .. .. .	Nil	10
	(Page 3)		
16.	Total amount of the sums (if any) paid by way of Commis- sion in respect of any Shares or Debentures or allowed by way of Discount in respect of any Debentures since the date of the last Return .. .. .	Nil	
17.	Total number of Shares forfeited. .. .. .	Nil	
18.	Total amount paid (if any) on Shares forfeited ..	Nil	
19.	Total amount of Shares for which Share Warrants to bearer are outstanding .. .. .	Nil	
20.	Total amount of Share Warrants to bearer issued and surrendered respectively since the date of the last Return. Issued .. .. .	Nil	20
	Surrendered .. .. .	Nil	
21.	Number of Shares comprised in each Share Warrant to bearer .. .. .	Nil	
22.	Total amount of the indebtedness of the Company in respect of all mortgages and charges of the kind which are required to be registered with the Registrar of Companies under the Companies Ordinance, No. 51 of 1938 Rs.	125,000/-	
23.	Name and address of the auditor, or the names and addres- ses of the auditors of the Company at the date of the Return.		30

Satchithananda Schokman  
Wijeratne & Co.,  
P. O. Box 918,  
Colombo.

The Return must be signed at the end by the Director or Secretary of the Company.



(Page 4)

*Copy of last Audited Balance Sheet of the Company*

P 8  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-63  
—Continued

*Note:—* Except where the Company is (1) a “Private Company” within the meaning of Section 27 of the Companies Ordinance, No. 51 of 1938, this Return must include a written copy, certified by a Director or by the Manager or Secretary of the Company to be a true copy, of the last balance sheet which has been audited by the Company’s Auditors (including every document required by law to be annexed thereto) together with a copy of the report of the auditors thereon (certified as aforesaid), and if any such balance sheet  
10 is in a language other than English there must also be annexed to it a translation thereof in English, certified in the prescribed manner to be a correct translation. If the said last balance sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

(Page 5)

*Certificate*

20 A. I certify that the Company has not since the date of the last Annual Return issued any invitation to the Public to subscribe for any Shares or Debentures of the Company.

Signature: Sgd. Illegibly.

State whether Director or Secretary.

B. Should the number of Members of the Company exceed fifty the following certificate is also required: I certify that the excess of Members of the Company above fifty consists wholly of persons who are in the employment of the Company and/or of persons who having been formerly in the  
30 employment of the company were while in such employment, and have continued after the determination of such employment to be Members of the Company.

Signature: .....

(State whether Director or Secretary):.....

(Pages 6 & 7)

PARTICULARS OF THE \*DIRECTORS OF THE JUPITER CIGARETTE & TOBACCO COMPANY LTD. AT THE DATE OF THE ANNUAL RETURN

† The present Christian Name or Names & Surname	Any former Christian Name or Names or Surname	Nationality	Nationality of origin (if other than the present Nationality)	Usual Residential Address	‡ Other Business occupation if any, if none, state so.
Edirisinghe Arachchige Premial Edirisinghe	None	Citizen of Ceylon	British	122, Ward Place, Borella, Colombo 7.	Merchant
Edirisinghe Arachchige Samel Appuhany	None	Citizen of Ceylon	British	1666, Cotta Rd., Rajagiriya.	Merchant
Udalage Podihamine	None	Citizen of Ceylon	British	1666, Cotta Rd., Rajagiriya.	Merchant

\* 'Director', includes any person who occupies the position of a director by whatever name called, and any person in accordance with whose directions or instructions the Directors of a Company are accustomed to act.

† In the case of a Corporation, its corporate name and registered or principal office should be shown.

‡ In the case of an individual who has no business occupation but holds any other directorship or directorships, particulars of that directorship or of someone of those directorships must be entered.

List of Persons holding Shares in the JUPITER CIGARETTE & TOBACCO Company Limited, on the Thirteenth day of January 1962, and of Persons who have held Shares therein at any time since the date of the last Return, or (in the case of the 1st Return, of the incorporation of the Company, showing their Names & Addresses and an Account of the Shares so held.

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Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-63  
—Continued

N.B.— If the names in this list are not arranged in alphabetical order, an Index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

Names, Addresses and Nationality					Account of Shares				Remarks	
Folio in Register, Ledger, containing particulars	Surname (i.e. last name)	Other names (i.e. names denoted by initials)	Address	Nationality	* Number of Shares held by existing members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of last Return or (in the case of first Return) of the incorporation of the Company, by persons, who have ceased to be Members		
						No.†	Date of Registration of Transfer	No.†		Date of Registration of Transfer
	Edirisinghe	Edirisinghe Aratchige Premlal	122, Ward Place, Colombo 7	Sinhalese	1539					
	Samel Appuhamy	Edirisinghe Arachige	1666, Cotta Road, Rajagiriya	Sinhalese	1					
	Podihamine	Uggalage	1666, Cotta Road, Rajagiriya	Sinhalese	1					
	Rohana	Ahangama Thomma Hewage David	122, Ward Place, Colombo 7	Sinhalese	100					
	Jayawardene	Pandunu Kumarage	122, Ward Place, Colombo 7	Sinhalese	100					
	Ratnapala	Galawalu Kankanamalage	122, Ward Place, Colombo 7	Sinhalese	100					
	Kusumasiri	Thilana Gamage Bandula	122, Ward Place, Colombo 7	Sinhalese	100					
	Wilbert	Ilankoon Aratchige	122, Ward Place, Colombo 7	Sinhalese	100					
	Abesekera	Titus	122, Ward Place, Colombo 7	Sinhalese	100					
	Nandawathie	Edirisinghe Arachige	122, Ward Place, Colombo 7	Sinhalese	100					

Signature: .....

State whether Director or Manager or Secretary: .....

\* The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

† When the shares are of different classes these columns may be sub-divided so that the number of each class held, or transferred, may be shown separately. Where any Shares have been converted into Stock the amount of Stock held by each Member must be shown.

‡ The date of Registration of each Transfer should be given as well as the Number of Shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the Transferee, but the name of the Transferee, may be inserted in the "Remarks" column immediately opposite the particulars of each Transfer.



P 8  
Annual Return  
of the Jupiter  
Cigarette &  
Tobacco Co.Ltd.  
13-1-63  
—Continued

Folio in Register, Ledger, containing particulars	Names, Addresses and Nationality				Account of Shares				Remarks	
	Surname (i.e. last name)	Other names (i.e. names denoted by Initials)	Address	Nationality	*Number of Shares held by existing members at date of Return†	‡Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the incorporation of the Company, by persons who are still Members		‡Particulars of Shares Transferred since the date of last Return or (in the case of first Return) of the incorporation of the Company, by persons, who have ceased to be Members		
						No.†	Date of Registration of Transfer	No.†		Date of Registration of Transfer
	Wijesoma	Ekanayakage Don	122, Ward Place, Colombo 7.	Sinhalese	100					
	Edirisinghe	Gamini	122, Ward Place, Colombo 7.	Sinhalese	100					
	Edirisinghe	Somasiri	122, Ward Place, Colombo 7.	Sinhalese	100					
	Edirisinghe	Upali	122, Ward Place, Colombo 7.	Sinhalese	100					
	Kumararatna	Katiri Arachige	122, Ward Place, Colombo 7.	Sinhalese	100					
	Wakwella	Kanthi	122, Ward Place, Colombo 7.	Sinhalese	100					
	Sivadas	Cathampalli Poovadan	122, Ward Place, Colombo 7.	Sinhalese	100					
	Silva de	Somapala	122, Ward Place, Colombo 7.	Sinhalese	100					
	Sirisena	Arambage	122, Ward Place, Colombo 7.	Sinhalese	100					
	Sirisena	Edirisinghe Arachige	122, Ward Place, Colombo 7.	Sinhalese	100					
	Don Francisge	Gunasena	122, Ward Place, Colombo 7.	Sinhalese	100			100	30-12-63	Transferred to E.D. Wijesoma

3241

True Copy

Sgd. ....  
Assistant Registrar of Companies  
11-10-1964

(Seal)

Sgd. Illegibly,  
Director.

**LETTER SENT TO CEYLON FINANCE & SECURITIES LTD.  
BY THE CHAIRMAN OF THE JUPITER CIGARETTE  
& TOBACCO CO. LTD.**

P 13  
Letter sent to  
Ceylon Finance  
& Securities  
Ltd. by the  
Chairman of the  
Jupiter Cigarette  
& Tobacco Co.  
Ltd.  
20-7-67

E. A. P. Edirisinghe

122, Ward Place,  
Borella,  
Colombo 7,  
20th July, 1967.

10 Messrs. Ceylon Finance & Securities Ltd.,  
Grandpass Road,  
Grandpass,  
Colombo.

Dear Sirs,

**Mortgage Bond No. 432 of 13.8.60  
attested by M. Ranganathan, N.P.**

With reference to the above, I am forwarding herewith a Cheque for Rs.  
254/50 being interest due from 13th April 1962 up to 12th May 1962.

Please acknowledge receipt.

20

Yours faithfully,  
The Jupiter Cigarette & Tobacco Co. Ltd.

Intd. ....  
*Chairman.*

Receipt No. 1265 of 4.8.62.

No.....**40** OF 1970

Supreme Court of Ceylon,  
No. 156 (Interlocutory) of 1966.

District Court of Colombo,  
Case No. 9039/MB.

*In Her Majesty's Privy Council  
on an Appeal from  
The Supreme Court of Ceylon*

BETWEEN

THE JUPITER CIGARETTE & TOBACCO CO. LTD. of  
Lady Catherine Group, Ratmalana.....

(Defendant - Respondent,  
Appellant

Vs

1. DR. HENNEDIGE CHARLES HENRY SOYSA of No. 7.  
Greenland Avenue, Havelock Town, Colombo.....
2. H. R. FERNANDO & CO. LTD. of No. 131, City Mission  
Building, Dam Street, Colombo 42.....
3. CEYLON FINANCE & SECURITIES LTD. of 282, Grandpass  
Road, COLOMBO 14.....

(Plaintiffs - Appellants)  
Respondents

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**RECORD  
OF PROCEEDINGS**

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