

In the Privy Council.

ON APPEAL

FROM THE WEST AFRICAN COURT OF APPEAL
(GOLD COAST SESSION)

UNIVERSITY OF LONDON
W.C.1.

BETWEEN

1. ABOUL RACHANAN TAMIM
14 JUL 29 1948 PHILIP YOUNIS ZACCA (Defendants) - - Appellants

INSTITUTE OF ADVANCED
LEGAL STUDIES

AND

TO COMPTROLLER OF CUSTOMS (GOLD COAST)
(Plaintiff) - - - - Respondent

Case

FOR THE SECOND APPELLANT, ZACCA

RECORD.

1. This is an appeal from the judgment of the West African Court of Appeal (Gold Coast Session), dated the 29th November, 1947, which affirmed a judgment of the Supreme Court of the Gold Coast, dated the 19th July, 1947, which reversed a judgment of the Court of the District Magistrate, Accra, dated the 8th March, 1947, dismissing the claim of the Respondent for the forfeiture of certain textile goods, and the imposition of penalties. p. 60. p. 50. p. 28.

2. The questions to be determined and the facts leading up to this appeal are set out in the preceding Case for the First Appellant, Tamin, which, it is prayed, may be read as part of the Case for the Second Appellant, Zacca, subject to what hereinafter follows.

3. There is a further question to be determined in Zacca's Case, viz. : whether he was an abettor of Tamim and as such liable to penalties.

4. The part that Zacca played in the events leading up to this appeal may be thus summarised. Zacca, who is the manager of the Beyrout Trading Co. Ltd. a subsidiary of the United Africa Co. Ltd., became acquainted with Tamim shortly after the latter's arrival in Accra. He advanced £8,000 to Tamim shortly after the latter's arrival in Accra. He together with £4,700 for textiles bought from the Beyrout Trading Co. Ltd. Zacca allowed Tamim to store these and other purchases in the firm's p. 20, ll. 30-38. p. 64 (Ex. Z1). p. 21, ll. 38-39. p. 13, ll. 30-31. p. 3, ll 21-24.

warehouse temporarily but insisted that they would have to be removed elsewhere almost immediately as he was expecting the new season's goods. In pursuance of this Tamim met Sassine at Zacca's warehouse and arranged for the goods to be moved to Sassine's warehouse for storage pending disposal in the Gold Coast or being transported for £360 to Lome at an uncertain date, on receipt of definite instructions to do so. Thereafter Zacca did not meet Tamim again. He received a telegram from Tamim asking that the textile goods in Sassine's warehouse might be retransferred to his (Zacca's) warehouse but nothing was done.

p. 1. 5. Thereafter the Comptroller of Customs sued Tamim and Zacca 10 for forfeiture of the textiles and the imposition of penalties.

p. 28. 6. On the 8th March, 1947, the learned District Magistrate, in delivering judgment, held, *inter alia*, that Tamim and Zacca had intended to export the textiles without licence and had purchased them with that end in view; that Zacca had given financial assistance to Tamim in consideration of the profits resulting if the goods could have been got into French territory; that neither Tamim nor Zacca ever believed that an export licence could have been obtained and that the goods had been collected at Zacca's warehouse as a result of Zacca desiring to help Tamim; that both of them had an intention to export the goods and that while it 20 was unnecessary to decide whether Zacca shared in the ownership of the goods, the help given by him was such assistance as made him liable as an abettor under Section 166 (1) of the Customs Ordinance. In the result the case was dismissed.

p. 50. 7. From this judgment the Supreme Court of the Gold Coast allowed the appeal of the Comptroller of Customs and this judgment was affirmed by the West African Court of Appeal to which Tamim and Zacca appealed.

p. 60. 8. From this judgment Zacca, along with Tamim, has appealed to His Majesty in Council and it is humbly submitted on his behalf that his appeal should be allowed, with costs, for, among other, the following 30

REASONS

- (1-9) BECAUSE of Reasons 1 to 7, 9, 14 and 15 as set out in the Case for the First Appellant, Tamim.
- (10) BECAUSE Tamim was not guilty of the infringement of the Customs Laws alleged against him.
- (11) BECAUSE Zacca was not an abettor of Tamim.

GLYNN BLACKLEDGE.

R. PARIKH.

Appeal No. 35 of 1948.

In the Privy Council.

ON APPEAL

*from the West African Court of Appeal
(Gold Coast Session)*

BETWEEN

**1. ABOUL RACHANAN
TAMIM**

2. PHILIP YOUNIS ZACCA
(Defendants) - - - *Appellants*

AND

**COMPTROLLER OF
CUSTOMS (GOLD COAST)**

(Plaintiff) - - - *Respondent.*

Case

FOR THE SECOND APPELLANT, ZACCA

A. L. BRYDEN & WILLIAMS,

53 Victoria Street,

London, S.W.1,

Solicitors for the Second Appellant, ZACCA.