

~~GHS 42~~

(2), 1963

IN THE PRIVY COUNCIL

No.37 of 1961

ON APPEAL
FROM THE COURT OF APPEAL OF
SIERRA LEONE AND GAMBIA

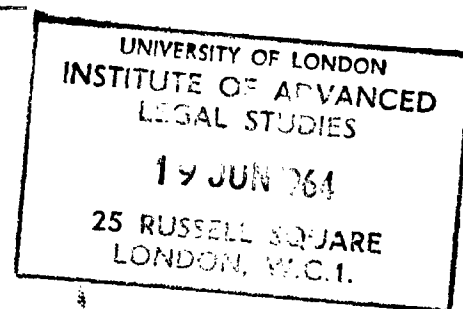
B E T W E E N :-

IBRAHIM MOMORDU ALLIE (ADMINISTRATOR OF
THE ESTATE OF AIHAJI ANTUMANI ALLIE
(Deceased) (Plaintiff) Appellant

-- and --

HAJAH FATMATTA KATAH (Defendant) Respondent

RECORD OF PROCEEDINGS



74056

DARLEY CUMBERLAND & CO.,
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Bedford Row,
London, W.C.1.

Solicitors for the Appellant.

SEIFERT, SEDLEY & CO.,
14, Fooks Court,
Cursitor Street,
Chancery Lane,
London, E.C.4.

Solicitors for the Respondent.

ON APPEAL

FROM THE COURT OF APPEAL OF SIERRA LEONE AND GAMBIA

B E T W E E N:-

IBRAHIM MORMORDU ALLIE (ADMINISTRATOR OF
THE ESTATE OF ALHAJI AMPUMANI ALLIE
(Deceased) (Plaintiff) Appellant

- and -

HAJAH FATHIATTA KATAH (Defendant) Respondent

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description of Document	Date	Page
	<u>IN THE SUPREME COURT OF SIERRA LEONE</u>		
1	Writ of Summons in No. C.C.310/60	6th August, 1960	1
2	Statement of Claim in No. C.C.310/60	9th September, 1960	3
3	Statement of Defence in No. C.C.310/60	October 1960	8
4	Reply in C.C.310/60	29th October 1960	9
5	Writ of Summons in No. C.C.311/60	6th August, 1960	9
6	Statement of Claim in No. C.C.311/60	11th November 1960	11
7	Order consolidating actions No.C.C.310/60 and No. C.C.311/60	22nd November 1960	16
8	Will of Mormordu Allie	30th August 1946	16
9	Codicil to Will of Mormordu Allie	19th July 1947	24
	<u>Plaintiff's Evidence</u>		
10	William Sylvester Young	24th January 1961	25
11	Henry Steady Macauley	24th January 1961	27
12	Sokonah Tarawalley	24th January 1961	28
13	Abdul Hakeem Sanusi	24th January 1961	28

No.	Description of Document	Date	Page
14	Mucktarr Kallay	24th January 1961	29
15	Henry Steady Macauley (Recalled)	25th January 1961	30
16	Sokonah Tarawalley (Recalled)	25th January 1961	30
17	Mucktarr Kallay (Recalled)	25th January 1961	32
18	Ibrahim Momordu Allie	27th January 1961	33
19	Baba Allie	27th January 1961	37
20	Abass Allie	27th January 1961	38
	<u>Defendant's Evidence</u>		
21	Abdul Hakeem Sanusi	30th January 1961	38
22	William Sylvester Young	30th January 1961	40
23	Hajah Fatmatta Katah	30th January 1961 31st January 1961	41 45
24	Abdul Hakeem Sanusi (Recalled)	31st January 1961	46
25	Application by Plaintiff to amend Statements of Claim (withdrawn and no Order made)	31st January 1961	46
26	Addresses to Court	1st February 1961 2nd February 1961	48 50
27	Judgment	23rd February 1961	56
28	Order	1st March 1961	73
	<u>IN THE COURT OF APPEAL OF SIERRA LEONE AND GAMBIA</u>		
29	Notice of Appeal	4th March 1961	74
30	Judges Notes	22nd, 28th and 29th March and 6th, 7th and 14th April 1961	77
31	Judgment	14th April 1961	88
32	Order granting final leave to Appeal to Her Majesty in Council	15th August 1961	96

E X H I B I T S

Exhibit Mark	Description of Document	Date	Page
'E'	Conveyance of Ahmed Alhadi to John A.C.Kabia Williams	21st May 1948	98
	Conveyance of Ahmed Alhadi Official Administrator to Ajah F. Katah	15th July 1948	100
	Conveyance of Ahmed Alhadi Official Administrator to Ajah F. Katah	15th July 1948	103
	Conveyance of Ahmed Alhadi Official Administrator to Ajah F. Katah	15th July 1948	106
	Conveyance of Ahmed Alhadi Official Administrator to Ajah F. Katah	15th July 1948	109
	Conveyance of Ahmed Alhadi Official Administrator to Ajah F. Katah	15th July 1948	111
	Conveyance of Ahmed Alhadi Official Administrator to Ajah F. Katah	12th July 1948	113
'H'	Conveyance of Ajah F.Katah to Alhadi Antumani	14th July 1948	115
'K'	Conveyance of Alhadi Antumani to Boie Kamara	18th September 1954	120
'L'	Conveyance of Official Administrator to Alhadi Antumani	14th September 1954	121
'M'	Conveyance of Alhadi Antumani to Muchtarr Kallay	5th April 1956	124

DOCUMENTS TRANSMITTED TO THE PRIVY COUNCIL BUT NOT
REPRODUCED.

Description of Document	Date
Application for leave to Appeal to Her Majesty in Council	25th April 1961
Affidavit of Plaintiff in support	25th April 1961
Application for injunction pending Appeal	9th May 1961
Affidavit of Plaintiff in support	10th May 1961
Affidavit of Defendant that no notice of intention to Appeal served on her	3rd July 1961
Certificate of Registrar of compliance with conditions of Appeal	29th July 1961
Application for final leave to Appeal to Her Majesty in Council	29th July 1961
Affidavit of Plaintiff in support	29th July 1961
Order granting injunction pending Appeal	31st July 1961

EXHIBITS TRANSMITTED TO THE PRIVY COUNCIL BUT NOT
REPRODUCED

Description of Document	Date
Affidavit of Ahmed Alhadi Official Administrator marked "B" in proceedings No.C.C.222/48	6th July 1949
Copy Will of Mormordu Allie annexed to Affidavit of Ahmed Alhadi in proceedings No.C.C.222/48	25th July 1942

EXHIBITS NOT TRANSMITTED TO THE PRIVY COUNCIL

Exhibit Mark	Description of Document	Date
'A'	File of proceedings No. C.C.320/60 Katah v. Allie	
'B'	Letters of Administration with Will annexed	10th March 1948
'C'	Register of Births and Deaths Freetown Vol.39	
'D'	Certified copy entry of birth 6.12.29 page 118 Vol.39 Register of Births and Deaths Freetown	
'F'	Certified extract of birth: page 23. Vol.37 Register of Births & Deaths, Freetown.	
'G'	Certified extract of birth: page 109 Vol.37 Register of Births & Deaths, Freetown.	
'J'	Supreme Court Cause Book.	

1.

IN THE PRIVY COUNCIL

No.37 of 1961

ON APPEAL
FROM THE COURT OF APPEAL OF
SIERRA LEONE AND GAMBIA

B E T W E E N:-

IBRAHIM MOMORDU ALLIE (ADMINISTRATOR OF
THE ESTATE OF ALHAJI ANTUMANI ALLIE
(Deceased) (Plaintiff) Appellant

- and -

HAJAH FATMATTA KATAH (Defendant) Respondent

10

RECORD OF PROCEEDINGS

No. 1

WRIT OF SUMMONS IN NO. C.C.310/60

COLONY OF
SIERRA LEONE
(TO WIT)

C.C.310/60

1960 A.

IN THE SUPREME COURT OF SIERRA LEONE

BETWEEN:- ESTATE OF MOMORDU ALLIE (Deceased)
IBRAHIM MOMORDU ALLIE (ADMINISTRATOR
OF THE ESTATE OF ALHAJI ANTUMANI ALLIE
(Deceased) 7, GUARD STREET, FREETOWN
Plaintiff

- and -

HAJAH FATMATTA KATAH,
2, KISSY ROAD, FREETOWN Defendant

ELIZABETH THE SECOND By the Grace of God of
the United Kingdom of Great Britain and
Northern Ireland and of her other realms and
territories Queen, Head of the Commonwealth
Defender of the Faith.

HAJAH FATMATTA KATAH, 2, KISSY ROAD, FREETOWN

In the
Supreme Court
of Sierra Leone

No. 1.

Writ of Summons
in No.C.C.310/60

6th August, 1960.

20

In the
Supreme Court
of Sierra Leone

To, IBRAHIM MOMORDU ALLIE (ADMINISTRATOR)
THE ESTATE OF ALHAJI ANTUMANI ALLIE
(Deceased)

No. 1.
Writ of Summons
in No.C.C.310/60.
6th August,
1960
- continued.

WE command you that within eight days after
the Service of this Writ on you, inclusive of the
day of such service, you do cause an appearance to
be entered for you in the Supreme Court of Sierra
Leone in an Action at the Suit of

and take notice that in default of your so doing
the Plaintiff may proceed therein, and judgment
may be given in your absence.

10

Witness His Lordship SALAKO A. BENKA-COKER,
Esquire Ag. Chief Justice of Sierra Leone at
Freetown, the 6th day of August, in the year of
our Lord 1960.

(Sgd.) F.H.S. Bridge,
Master and Registrar.

The Plaintiff's Claim against the Defendant is an
Administrator of the Estate of Alhaji Antumani
Allie (Deceased) for a declaration that convey-
ances executed between Alhaji Antumani Allie and
the Defendant and Ahmed Alhadi and affecting the
following properties :-

20

- 23, East Street, Freetown
- 2, Fourah Bay Road, Freetown
- 2, Kissy Road, Freetown
- 5, and 5a, Kissy Road, Freetown
- 21, Fisher Street, Freetown
- 6, Magazine Cut, Freetown
- 46, East Street, Freetown, and
- 50, East Street, Freetown.

30

devised in the Will of Momordu Allie (Deceased) to
the Defendant for life and thereafter unto and to
the use of Alhaji Antumani Allie (Deceased) his
heirs and assigns in fee simple are void and of
no effect and be set aside as being obtained from
an infant against his interest and by undue

influence.

(Sgd.) Cyrus Rogers-Wright,
COUNSEL.

In the
Supreme Court
of Sierra Leone

This Writ was issued by CYRUS ROGERS-WRIGHT,
28, Charlotte Street, Freetown,
Solicitor for the Plaintiff who
resides at 7, Guard Street,
Freetown.

No. 1.
Writ of Summons
in No.C.C.310/60.
6th August,
1960
- continued.

(Sgd.) Cyrus Rogers-Wright,
PLAINTIFF'S SOLICITOR.

10

N.B. - This Writ is to be served within twelve
calendar months from the date thereof, or
if renewed, within six calendar months from
the date of the last renewal, including
the day of such date, and not afterwards.

The Defendant may appear hereto by enter-
ing an Appearance either personally or by
Solicitor at the Master's Office Supreme
Court of Sierra Leone.

20

No. 2.

No. 2.

STATEMENT OF CLAIM IN NO. C.C.310/60
C.C.310/60 1960 A.No.23.

Statement of
Claim in
No.C.C.310/60

IN THE SUPREME COURT OF SIERRA LEONE
IN THE ESTATE OF MOMORDU ALLIE (Deceased) TESTATOR
BETWEEN:- IBRAHIM MOMORDU ALLIE (Administrator of
the Estate of ALHAJI ANTUMANI ALLIE
(Deceased) Plaintiff

9th September,
1960.

Vs.

HAJAH FATMATA KATAH Defendant

STATEMENT OF CLAIM

30

1. The Plaintiff is the Administrator of the Es-
tate of Alhaji Antumani Allie (Deceased) who died
at Freetown on the 4th May 1959 intestate as he is
the eldest lawful brother of full age according to
Mohamedan Law and Custom of the said Alhaji Antu-
mani Allie (Deceased) and is with 11 others, the

In the
Supreme Court
of Sierra Leone

No. 2.

Statement of
Claim in
No.C.C.310/60

9th September,
1960

- continued.

lawful children of full age of Momordu Allie (Deceased) who died at Freetown on the 22nd January 1948 leaving a Will dated the 20th August 1946 as confirmed by Codicil dated the 19th July, 1947.

2. By the said Will dated as aforesaid the said Momordu Allie at Paragraphs 4 and 13 respectively provided as follows: By Paragraph 4 of the said Will :-

I give and bequeath unto my wife HAJAH FATMATTI KATAH for her lifetime FIRSTLY: 10
All that messuage and hereditaments situate and being No.8, Magazine Street, Freetown, SECONDLY: All that messuage and hereditaments situate and being No.23, East Street, THIRDLY: All that messuage and hereditaments situate and being No.8, Fourah Bay Road, Freetown, FOURTHLY: All that messuage and hereditaments situate and being No.2 and 2a, Kissy Road, Freetown, FIFTHLY: All that messuage and hereditaments situate and being No.20, Fisher 20
Street, SIXTHLY: All that messuage and hereditaments situate and being No.6, Magazine Cut: and after her death or re-marriage I devise the above-mentioned premises unto my Trustees Upon Trust for my son Alhaji Antumani Allie his heirs and assigns in fee simple and as tenants in common".

and by Paragraph 13 of the said Will :-

"I give and devise all those messuage and hereditaments in East Street, Freetown and numbered 697 and 145 in the Public Register and Plan of Town Lots of land for Freetown and also numbered 46 and 50 by the City Council of Freetown aforesaid and also All that messuage and hereditaments situate and being No.43, East Street, Freetown unto and to the use of my said wife Hajah Fatmatta Katah for and during her lifetime or so long as she remains my widow and after her death or re-marriage whichever event shall first happen I 40
devise the said messuage and hereditaments unto my said Executors and Trustees upon trust for my son Alhaji Antumani and my other child or children of mine who are now or hereafter may be born by my wife Hajah Fatmatta Katah in equal shares and as tenants in common".

3. The Plaintiff says that the effect of the devises was to create a remainder vested in interest in the said Alhaji Antumani Allie (Deceased) so that on his death intestate his vested interest therein Vest in his Personal Representative for the benefit of his Estate and on behalf of his next of kin.

10 4. The said Momordu Allie (Deceased) appointed the Defendant, and Alhaji Baba Allie and the said Alhaji Antumani Allie (Deceased) both lawful children of his, his Executors. The said Executors on the 10th February, 1948 renounced probate and on the 10th March, 1948 the then Official Administrator of Estates for the Colony of Sierra Leone AHMED AIHADI was appointed Administrator of the Estate of Momordu Allie (Deceased) with the Will annexed.

20 5. The Defendant is the mother of the said Alhaji Antumani Allie (Deceased) and they were both professed and practising Mohamedans. The said Alhaji Antumani Allie (Deceased) was at the date of the Conveyances recited in the next paragraph hereof an infant, unemployed Defendant upon and living under and by the aegis of the said Defendant.

7. By Indentures of Conveyance each dated the 15th July, 1948 and Registered respectively as follows in the Register of Conveyances kept in the Offices of the Register General, Westmoreland Street:

- 30 1. Page 129 of Volume 158 No.46 East Street, Freetown.
 2. Page 130 of Volume 158 No.6 Magazine Cut, Freetown.
 3. Page 131 of Volume 158 No.48 East Street, Freetown.
 4. Page 132 of Volume 158 No.23 East Street, Freetown.
 5. Page 133 of Volume 158 No.50 East Street, Freetown.
 40 6. Page 135 of Volume 158 No.2 Kissy Road, Freetown.

AHMED AIHADI Male fide and in collusion with

In the
Supreme Court
of Sierra Leone

No. 2.

Statement of
Claim in
No.C.C.310/60.

9th September,
1960

- continued.

In the
Supreme Court
of Sierra Leone

No. 2.

Statement of
Claim in
No.C.C.310/60.

9th September,
1960

- continued.

the Defendant conveyed all the above mentioned properties unto and to the use of the said Defendant in fee simple absolute in possession and by the exercise of undue influence over the said Alhaji Antumani Allie (Deceased) obtained his execution thereto as Beneficiary under the said Will of Momordu Allie (Deceased).

8. The effect of the said Conveyances was to denude the said Alhaji Antumani Allie who, as stated above was at the date of such Conveyances, an infant of his entire patrimony and inheritance at a time when he was an infant and unable to appreciate the nature and effect of the documents he was executing. 10

The Plaintiff says that as the parent of the said Alhaji Antumani Allie (Deceased) the Defendant had acquired a dominion and influence over the said Alhaji Antumani Allie (Deceased) and that she took advantage of his extreme dependence upon her and thereby induced him to abandon to her his entire patrimony at a time when he was an infant. The Plaintiff says that the influence of the Defendant over the said Alhaji (Deceased) was as complete that he was not a free agent and the said Conveyances were not the offspring of his own volition, were obtained by the importunity and coercion of the Defendant. 20

9. The Plaintiff says further that the alleged Deed of Family Arrangement, does not exist and that if it does, (which is denied) he puts the Defendant to strict proof that its purported execution by the said Alhaji Antumani Allie at the time an infant was free and voluntary and done after the said Alhaji Antumani Allie (Deceased) had obtained free and independent advice, since the effect thereof was to convey unto the Defendant all and every the patrimony and inheritance of the said Alhaji Antumani Allie (Deceased). 30

10. The Plaintiff further says that the said alleged Deed of Family Arrangement was prepared and engrossed by the legal advisor of the Defendant. 40

11. The Plaintiff further says that the Conveyance to the Defendant of 48, East Street, Freetown was a Conveyance of premises limited to the said Alhaji Antumani Allie in fee simple.

12. The Plaintiff also says that no order of the Supreme Court approving the said Family Arrangement dated the 14th July, 1948 was ever obtained and puts the Defendant to strict proof thereof.

In the
Supreme Court
of Sierra Leone

No. 2.

Statement of
Claim in
No.C.C.310/60.

9th September,
1960

- continued.

10 13. If, which is denied, such an Order was obtained then the Plaintiff says that such order was obtained by collusion between the Defendant and Ahmed Alhadi and by mis-representation and without due and proper notice to the other parties and next of kin of the said Alhaji Antumani Allie (Deceased) and a time when he was an infant and was against his interest and ought to be revoked and set aside.

The Defendant has since sold premises at 46, East Street, Freetown for her exclusive use and benefit.

14. That the Defendant is now without issue or children.

WHEREFORE THE PLAINTIFF CLAIMS :-

- 20 1. That the Conveyances recited at Paragraph 7 hereof being obtained from an infant against his interest and by undue influence be set aside, and the devise made by the deceased Momordu Allie be restored.
- 2. That the Defendant be condemned in the Costs of these proceedings.
- 3. Such further or other order as shall be just.

(Sgd.) C. Rogers Wright
COUNSEL.

30 DELIVERED AND FILED this 9th day of September, 1960, by Cyrus Rogers-Wright, of 28, Charlotte Street, Freetown, Solicitor for the Plaintiff pursuant to the Rules of the Supreme Court.



In the
Supreme Court
of Sierra Leone

No. 3.

STATEMENT OF DEFENCE

No. 3.

No.310/60

1960

A. No. 23.

Statement of
Defence in
No.C.C.310/60.

IN THE SUPREME COURT OF SIERRA LEONE

October
1960.

BETWEEN:- IBRAHIM MOMORDU ALLIE (Administrator
of the Estate of Alhaji Antumani Allie,
Deceased) Plaintiff

- and -

HAJAH FATMATTA KATAH

Defendant

STATEMENT OF DEFENCE

10

1. The Defendant admits that Letters of Administration of the estate of Alhaji Antumani Allie, deceased, were granted to the Plaintiff as alleged in paragraph 1 of the Plaintiff's Statement of Claim (hereinafter referred to as "the Claim") but say that an action is now pending before this Court for revocation of the said grant and for pronouncement of the Will of the said Alhaji Antumani Allie, deceased, dated the 5th day of January, 1949.

2. The Defendant admits the truth of the allegation of paragraphs 2 and 4 of the Claim.

20

3. The Defendant puts the Plaintiff to strict proof of the allegations contained in paragraphs 5, 7, 8, 9 and 10 11 and 12 and 13, and further says that the Plaintiff who denies the existence or in the alternative the validity of the said Deed of Family Arrangement mentioned in the said paragraph 9 should prove that its execution was not free and voluntary and that the said Alhaji Antumani free and independent advice before executing the same.

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(Sgd.) Melville C. Marke
COUNSEL.

FILED AND DELIVERED this day of October,
1960 by MELVILLE CROWTHER MARKE of 14, Liverpool
Street, Freetown, Solicitor for the Defendant
herein pursuant to the Rules of the Supreme Court.

9.

No. 4.

REPLY.

C.C.No.310/60

1960

A. No. 23.

In the
Supreme Court
of Sierra Leone

No. 4.

reply in
No.C.C.310/60.

IN THE SUPREME COURT OF SIERRA LEONE

BETWEEN:- IBRAHIM MOMORDU ALLIE (Administrator
of the Estate of Alhaji Antumani Allie
(Deceased) Plaintiff

29th October,
1960.

- and -

HAJAH FATMAMTA KATAH Defendant

10

R E P L Y

The Plaintiff joins issue with the Defendant upon her Defence herein.

(Sgd.) Cyrus Rogers-Wright,
COUNSEL.

DELIVERED AND FILED this 29th day of October, 1960,
by CYRUS ROGERS-WRIGHT Solicitor for the Plaintiff,
Pursuant to the Rules of the Supreme Court.

No. 5.

WRIT OF SUMMONS IN NO.C.C.311/60

20

COLONY OF
SIERRA LEONE
(TO WIT)

C.C.311/60

1960 A.No.24.

No. 5
Writ of
Summons in
No.C.C.311/60.

6th August
1960.

IN THE SUPREME COURT OF SIERRA LEONE

ESTATE OF MOMORDU ALLIE (Deceased)

BETWEEN:- IBRAHIM MOMORDU ALLIE (Administrator of
the Estate of ALHAJI ANTUMANI ALLIE
(Deceased) 7, Guard Street, Freetown
Plaintiff

- and -

30

HAJAH FATMAMTA KATAH, 2, KISSY ROAD,
Freetown Defendant

ERIZABETH THE SECOND by the Grace of God of the

In the
Supreme Court
of Sierra Leone

United Kingdom of Great Britain and Northern
Ireland and of her other realms and territor-
ies Queen, Head of the Commonwealth Defender
of the Faith.

No. 5.

To HAJAH FATMATTI KATAH, 2, Kissy Road, Freetown.

Writ of
Summons in
No.C.C.311/60.

6th August,
1960
- continued.

WE command you that within EIGHT (8) days
after the Service of this Writ on you, inclusive
of the day of such service, you do cause an appear-
ance to be entered for you in the Supreme Court of
Sierra Leone in an Action at the Suit of IBRAHIM
MOMORDU ALLIE (Administrator of the Estate of
ALHAJI ANTUMANI ALLIE Deceased) And take notice
that in default of your so doing the Plaintiff may
proceed therein, and judgment may be given in
your absence.

10

Witness the Honourable SALAMU A. BENKA-COKER,
Esquire Acting Chief Justice of Sierra Leone at
Freetown, the 6th day of August, in the year of
our Lord 1960.

(Sgd.) F.H.S. Bridge,

20

Master and Registrar.

The Plaintiff's claim against the Defendant is as
the Administrator of the Estate of Alhaji Antumani
Allie (Deceased) for a declaration that conveyance
expressed to be made between the said Alhaji
Antumani Allie (Deceased) and the Defendant Hajah
Fatmatta Katah conveying premises at 48, East
Street, Freetown unto and to the use of the said
Hajah Fatmatta Katah be set aside on the ground
that its execution was obtained by undue influence.

30.

H.B.-- This Writ is to be served within twelve cal-
endar months from the date thereof, or if
renewed, within six calendar months from the
date of the last renewal, including the day
of such date, and not afterwards.

The Defendant may appear hereto by entering
an Appearance either personally or by
Solicitor at the Master's Office Supreme
Court of Sierra Leone.

This Writ was issued by -

CYRUS ROGERS-WRIGHT,

of 28, Charlotte Street, Freetown,

Solicitor for the above-named
Plaintiff who resides at

7, Guard Street, Freetown.

(Sgd.) C.Rogers-Wright.

Plaintiff's Solicitor.

In the
Supreme Court
of Sierra Leone

No. 5.

Writ of Summons
in No.C.C.311/60.

6th August,
1960

- continued.

No. 6.

No. 6.

10

STATEMENT OF CLAIM IN NO. C.C.311/60

C.C.311/60.

1960

A. No.24.

IN THE SUPREME COURT OF SIERRA LEONE

IN THE ESTATE OF MOMORDU ALLIE (Deceased)
TESTATE.

Statement of
Claim in
No.C.C.311/60.

11th November,
1960.

BETWEEN:- IBRAHIM MOMORDU ALLIE (Administrator
of the Estate of ALHAJI ANTUMANI ALLIE
Deceased) Plaintiff

- and -

HAJAH FATMATA KATAH Defendant

20

STATEMENT OF CLAIM

1. The Plaintiff is the Administrator of the Estate of Alhaji Antumani Allie (Deceased) who died at Freetown on the 14th May 1959 intestate, as he is the eldest lawful brother of full age according to Mohammedan Law and Custom of the said Alhaji Antumani Allie (Deceased) and is with 11 others the lawful children of full age of Momordu Allie (Deceased) who died at Freetown on the 22nd January 1948 leaving a Will dated the 20th August 1946 confirmed by Codicil dated the 19th July 1947.

30

2. By the said Will the said Momordu Allie at Paragraph 25 thereof provided as follows :-

Paragraph 25 "I devise unto my said Executors and Trustees firstly ALL THAT messuage and hereditaments situate and being No.48 East Street and secondly ALL THAT messuage and hereditaments situate and being No. 9 Walpole Street,

In the
Supreme Court
of Sierra Leone

Freetown upon trust for my son Alhaji
Antumani his heirs and assigns as
tenants in common".

No. 6.
Statement of
Claim in
No.C.C.311/60.
11th November,
1960
- continued.

3. The said Momordu Allie (Deceased) appointed the Defendant, Alhaji Baba Allie, and the said Alhaji Antumani Allie both lawful children of his, his executors. The said Executors on the 10th February 1948 renounced Probate and on the 10th March 1948 the then Official Administrator of the Colony of Sierra Leone Ahmed Alhadi was appointed Administrator of the Estate of Momordu Allie (Deceased) with the Will annexed. 10

4. The Defendant is the mother of the said Alhaji Antumani Allie (Deceased) and is herself under the terms of the Will a considerable beneficiary both of freehold devised to her absolutely, and of life interests conveyed to her. The said Defendant and the said Alhaji Antumani Allie were both professed and practising Mohammedans. The said Alhaji Antumani Allie was at the date of the conveyance of the premises herein at 48, East Street, Freetown an infant, unemployed, dependent upon and living by and under the aegis of his mother the Defendant. 20

5. By paragraphs 4 and 13 of the said Will of the said Will of Momordu Allie (Deceased) the following provisions were made :-

Paragraph 2 "I give and bequeath unto my wife Hajah Fatmatta Katak for her lifetime Firstly ALL THAT messuage and hereditaments situate and being No.8 Magazine Street, Freetown, Secondly ALL THAT messuage and hereditaments situate and being No.23, East Street, Freetown, Thirdly ALL THAT messuage and hereditaments situate and being No.8, Fourah Bay Road, Freetown Fourthly ALL THAT messuage and hereditaments situate and being No.2 and 2a Kissy Road, Freetown, Fifthly ALL THAT messuage and hereditaments situate and being No.20, Fisher Street, Sixthly ALL THAT messuage and hereditaments situate and being No.6, Magazine Cut and after her death or remarriage I devise the above mentioned premises unto my trustees upon trust for my son Alhaji 30 40

Antumani his heirs and assigns in fee simple and as tenants in common"
 and
 Paragraph 13 "I give and devise all those messuages and hereditaments in East Street, Freetown and numbered 697 and 1145 in the Public Register and Plan of Town Lots for Freetown and also numbered 46 and 50 by the City Council of Freetown aforesaid and also that messuage and hereditaments situate and being No.43, East Street, Freetown unto and to the use of my said wife Hajah Fatmatta Katah for and during her lifetime or so long as she remains my widow and after her death or remarriage whichever event shall first happen I devise the said messuage and hereditaments unto my said Executors and Trustees upon trust for my son Alhaji Antumani Allie and any other child or children of mine who are now or hereafter may be born by my wife Hajah Fatmatta Katah in equal shares and as tenants in common".

In the Supreme Court of Sierra Leone

No. 6.

Statement of Claim in No.C.C.311/60.

11th November, 1960

- continued.

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6. Paragraph 17 of the said Will in addition Devised 19, Wellington Road, Kissy, 13 Calabar Town, hereditaments at Kossoh Town, Hastings, and premises at Rockel Road, Hastings, and paragraph 20 of the said Will devised 9, Guard Street, 17 and 17a Martin Street, 9 Main Road Granville Bay absolutely to the Defendant.

7. The Plaintiff says that the effect of the devise of 48, East Street, at paragraph 25 of the said Will was to vest in the said Alhaji Antumani Allie on the death of the testator the legal fee simple and that the effect of the devises at paragraphs 4 and 13 of the said Will was to create a remained vested in interest in the said Alhaji Antumani Allie (Deceased) so that on his death the said properties vest in his personal representative for the benefit of his estate and for the benefit of his next of kin.

8. By Indentures of Conveyance each dated the 15th July executed at a time when the said Alhaji Antumani Allie was an infant under the dominion of

In the
Supreme Court
of Sierra Leone

No. 6.
Statement of
Claim in
No.C.C.311/60.
11th November,
1960
- continued.

the Defendant and registered respectively as follows in the Register of Conveyances kept in the Offices of the Registrar General, Westmoreland Street.

- | | | |
|---------------------------|----------------------|----|
| 1. Page 129 of Volume 158 | No. 46, East Street. | |
| 2. Page 130 of Volume 158 | No. 6, Magazine Cut. | |
| 3. Page 131 of Volume 158 | No. 48, East Street. | |
| 4. Page 132 of Volume 158 | No. 23, East Street. | |
| 5. Page 133 of Volume 158 | No. 50, East Street. | |
| 6. Page 135 of Volume 158 | No. 2, Kissy Road. | 10 |

the aforesaid Ahmed Alhadi male fide and in collusion with the Defendant conveyed all the above mentioned properties unto and to the use of the Defendant in fee simple absolute in possession and by the exercise of undue influence over the said Alhaji Antumani Allie obtained his execution thereto as Beneficiary under the Will of the said Momordu Allie deceased.

9. The effect of the said conveyances including the conveyance of 48, East Street, Freetown was to denude the said Alhaji Antumani Allie deceased who, as set out above, was at the date of these conveyances an infant, of his entire patrimony and inheritance at a time when he was an infant and unable to appreciate the nature and effect of the documents he was executing or the enormous effect such execution would have on his future independence. The Plaintiff says that as the parent of the said Alhaji Antumani Allie the Defendant had acquired a dominion and influence over the said Alhaji Antumani Allie, and that she took advantage of his extreme dependence upon her, and thereby induced him to abandon to her his entire patrimony and inheritance at a time when he was an infant. The Plaintiff says that the influence of the Defendant over the said Alhaji Antumani Allie was so complete that the said Alhaji Antumani Allie was not a free agent and that the said conveyances are not the offspring of his own volition, were against his interest and were obtained by the importunity and coercion of the Defendant.

10. The Plaintiff says further that the said alleged deed of Family Arrangement does not exist and that its execution by the said Ahmed Alhadi on behalf of the infant and as his Trustee was in

fraud upon an infant since the concerted purpose of the said deed was to denude an infant of his property patrimony and inheritance, and that the said deed, the existence of which is not admitted, was in fact prepared by and engrossed by the legal adviser of the Defendant.

In the
Supreme Court
of Sierra Leone

No. 6.

Statement of
Claim in
No.C.C.311/60.

11th November,
1960

- continued.

10 11. The Plaintiff says further that no Order of the Supreme Court was obtained sanctioning the denudation of an infants estate as is fraudently recited in the conveyances referred to at Paragraph 6 hereof and puts the Defendant to the strictest proof thereof. If, which is denied such order was obtained then the Plaintiff on behalf of himself and other the lawful children of Momordu Allie who are next of kin of the said Alhaji Antumani Allie deceased says that such order was obtained by collusion between the Defendant and the aforesaid Ahmed Alhadi and by misrepresentation and without due and proper notice to other beneficiaries under the Will of Momordu Allie and next of kin of the said Alhaji Antumani Allie and at a time when he was an infant and against his interest and ought to be revoked and set aside.

20 12. The Defendant has since sold premises at 46, East Street, for her exclusive use and benefit.

13. The Defendant is now without issue or children and the possibility of issue with the Testator Momordu Allie is extinct.

WHEREFORE THE PLAINTIFF CLAIMS:-

- 30 1. That the Conveyance to the Defendant of 48, East Street, Freetown recited at paragraph 8 hereof being a Conveyance obtained from an infant against his interest and by undue influence be set aside and the devise made by the said Momordu Allie be restored.
2. That the Defendant do pay the costs of these proceedings.
3. Such further or other relief as shall be just.

(Sgd.) Cyrus Rogers-Wright,
COUNSEL.

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DELIVERED AND FILED this 11th day of November, 1960 by Cyrus Rogers-Wright, of 28, Charlotte Street, Freetown, Solicitor for the Plaintiff pursuant to the Rules of the Supreme Court.

In the
Supreme Court
of Sierra Leone

No. 7.

ORDER CONSOLIDATING ACTIONS NO.C.C.310/60 and
NO. C.C.311/60

No. 7.
Order
Consolidating
Actions
No.C.C.310/60
and No.C.C.
311/60.
22nd November,
1960.

Tuesday 22nd November 1960. Before Justice Jones

Cyrus Rogers-Wright for Plaintiff.

M.C. Marke for Defendant.

Court: See C.C.310/60 which by order of this Court
has this day been consolidated with the present
Case 311/60.

Both matters are fixed for hearing on 3/1/61.

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(Sgd.) S.B. Jones, P.J.

Tuesday 3rd January 1961.

Cor. Jones. P.J.

Cyrus Rogers-Wright for Plaintiff.

M.C. Marke for Defendant absent.

Court: Today is vacation.

Case must be adjourned.

Adjourned to 24/1/61.

(Sgd.) S.B. Jones, P.J.

No. 8.

No. 8.

Will of
Mormordu Allie.
30th August,
1946.

WILL OF MORMORDU ALLIE

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I, MORMORDU ALLIE of No.8 Magazine Street, Free-
town in the Colony of Sierra Leone, Butcher, hereby
revoke all wills codicils and other testamentary
dispositions heretofore made by me and declare
this to be my last Will and Testament.

1. I APPOINT my wife AJAH FATMATTI KATAH and my
sons ALHADI BARBER and ALHADI ANTUMANI (hereinafter
called my Trustees) to be the EXECUTORS and
TRUSTEES of this my Will.

2. I devise unto my said Executors and Trustees
Firstly:- ALL THAT messuage and hereditaments
situate and being No.30, Kissy Street, Freetown,
Secondly:- ALL THAT messuage and hereditaments

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situate and being No.9 Lower Bay, Kissy Town Upon Trust for my daughter Sock-Nah her heirs and assigns in fee simple and as tenants in common.

In the
Supreme Court
of Sierra Leone

3. I devise ALL THAT messuage and hereditaments situate and being No.46, Rawdon Street in Freetown aforesaid unto my son Demba his heirs and assigns in fee simple and as tenants in common.

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

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4. I give and devise unto my wife the said Ajah Fatmatta Katah for her lifetime Firstly:- ALL THAT messuage and hereditaments situate and being No.8, Magazine Street Freetown, Secondly: ALL THAT messuage and hereditaments situate and being No.23, East Street Freetown, Thirdly: ALL THAT messuage and hereditaments situate and being No.2, Fourah Bay Road Freetown, Fourthly: ALL THOSE messuages and hereditaments situate and being Nos. 2, 5-5A, Kissy Road Freetown; Fifthly: ALL THAT messuage and hereditaments situate and being No.20 Fisher Street Freetown; Sixthly: ALL THAT messuage and hereditaments situate and being No. 6, Magazine Cut; and after her death or remarriage I devise the above-mentioned premises Unto my Trustees Upon Trust for my son Alhadi Attumani his heirs and assigns in fee simple and as tenants in common.

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5. I give and devise unto my said Executors and Trustees Firstly: ALL THAT messuage and hereditaments situate and being No.31, Lumley Street, Freetown; Secondly:- ALL THAT messuage and hereditaments situate and being No.12, Percival Street Freetown and Thirdly: ALL THAT lot piece or parcel of land messuage and hereditaments situate and being No.15, Magazine Cut Freetown Upon Trust for my son Alhadi Barber his heirs and assigns in fee simple and as tenants in common.

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6. I give and devise Firstly: ALL THAT messuage and hereditaments situate and being No. 7, Guard Street Railway Line Freetown and Secondly: ALL THAT empty lot of land situate lying and being in Reader Street in Freetown aforesaid and numbered Eight (8) by the City Council of Freetown Unto my son Ibrahima his heirs and assigns in fee simple.

7. I give and devise All that messuage and hereditaments situate and being No.3, Circular Road Freetown unto my said Executors and Trustees Upon

In the
Supreme Court
of Sierra Leone

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

Trust for my son Demba his heirs and assigns in fee simple and as tenants in common.

8. I devise unto my said Executors and Trustees Firstly: ALL THAT messuage and hereditaments situate and being No.10, East Brook Land Freetown, Secondly: ALL THAT messuage and hereditaments situate and being No.7, Wharf Road Cline Town, Thirdly: ALL THAT messuage and hereditaments situate and being No.14, Benjamin Lane Freetown and Fourthly: ALL THAT messuage and hereditaments situate and being No.1, Susan's Bay Frontage Freetown Upon Trust for my son Kemok his heirs and assigns in fee simple and as tenants in common.

10

9. I devise unto my said Executors and Trustees All that messuage and hereditaments situate and being No.44, Bambarra Spring Upon Trust for my son Demba his heirs and assigns in fee simple and as tenants in common.

10. I give and devise unto my said Executors and Trustees All that messuage and hereditaments situate and being in Henry Street (East) and numbered 7 (Seven) Upon Trust for my son Malligy in fee simple.

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11. I devise unto my said Executors and Trustees Firstly: ALL THAT messuage and hereditaments situate and being No.93, Circular Road; Secondly: ALL THAT messuage and hereditaments situate and being No.17, Edward Lane Freetown Upon Trust for my son Ibrahima, the brother of Kemok by one mother.

12. I devise unto my said Executors and Trustees All That messuage and hereditaments situate and being No.4, Bathurst Street Freetown Upon Trust for my son Abdulee his heirs and assigns in fee simple and as tenants in common.

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13. I give and devise All those messuages and hereditaments situate in East Street Freetown and numbered 967 and 1145 in the Public Register and Plan of town lots of land for Freetown and also numbered 46 and 50 by the City Council of Freetown aforesaid AND ALSO ALL THAT messuage and hereditaments situate and being No.43 East Street Freetown Unto and to the use of my said wife Ajah Fatmattah Kata for and during her lifetime or so long as she remains my widow and after her death or remarriage

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whichever event shall first happen I devise the said messages and hereditaments unto my said Executors and Trustees Upon Trust for my son Alhadi Attumani and any other child or children of mine who are now or hereafter may be born by my said wife Ajah Fatmatta Kata in equal shares and as tenants in common

In the
Supreme Court
of Sierra Leone

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

10 14. I give and devise All that message and hereditaments situate and being No.174A Circular Road Freetown Unto my said Executors and Trustees Upon Trust for my son Ibrahima, the brother of Kemok by one mother.

15. I devise unto my said Executors and Trustees Firstly: ALL THAT message and premises situate and being No.45, Waterloo Street and Secondly: ALL THAT message and premises situate and being No. 3 James Street Freetown Upon Trust for my son Marmodu-Lee the brother of Maliggy, his heirs and assigns in fee simple and as tenants in common.

20 16. I devise unto my said Trustees Firstly: ALL THAT message and hereditaments situate and being No.23, Dougan Street Freetown; Secondly: ALL THOSE messages and premises situate and being Nos. 30-30D Garrison Street Freetown and 22 and 22A, Garrison Street aforesaid and Thirdly: ALL THOSE messages and hereditaments situate and being Nos. 25-25A, Pultney Street Freetown aforesaid Upon Trust for my daughter Sock-Nail her heirs and assigns in fee simple and as tenants in common.

30 17. I devise Firstly: ALL THAT message and premises situate in Wellington Road Kissy and numbered Nineteen (19) for taxation purposes Secondly: ALL THAT message and premises situate and being in Calabar Town Wellington Village and numbered Thirteen (13) for taxation purposes; Thirdly: ALL THAT message and premises situate and being in Fossok Town Hastings and Fourthly: ALL THAT message and premises situate and being in Rokelle Road Hastings Unto and to the use of
40 my wife Ajah Fatmattah Kata her heirs and assigns as tenants in common.

18. I devise all my empty lot of land situate and being in Magazine Cut Freetown where late Bunjie Rainy Lumpkin Undertaker lately tenanted for keeping his hearse unto my son Ibrahima for the purpose

In the
Supreme Court
of Sierra Leone

No. 8.
Will of
Mormordu Allie.
30th August
1946
- continued.

of erecting a Mosque either alone or jointly with others for the common use of all my people for prayer.

19. I devise unto my said Executors and Trustees Firstly: ALL THAT messuage and hereditaments situate in Jenkins Street in Freetown aforesaid and numbered Four (4) and Secondly ALL THOSE messuages and hereditaments situate and being Nos. 10-10B Jenkins Street aforesaid Upon Trust for my daughter Nehneh in fee simple

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20. I devise Firstly: ALL THAT messuage and hereditaments situate and being No.9 Guard Street Railway Line Freetown; Secondly: ALL THOSE messuages and hereditaments situate and being Nos. 17 and 17A Martin Street Freetown and Thirdly: ALL THAT messuage and premises situate and being in Main Road Granville Bay and numbered nine (9) Unto and to the use of my wife Ajan Fatmattah Kata absolutely.

21. I devise unto my said Executors and Trustees Firstly: ALL THAT messuage and hereditaments situate and being No.8, Circular Road Freetown and Secondly: ALL THOSE messuages and hereditaments situate and being in Horton Street in Freetown aforesaid and numbered 24 and 24A Upon Trust for my daughter Madiah at present residing at Madina, her heirs and assigns as tenants in common AND I hereby direct and declare that the rents of the said premises after deducting all expenses for repairs and rates should be sent to her from time to time.

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22. I devise unto my said Executors and Trustees All that messuage and hereditaments situate and being in Jenkins Street in Freetown aforesaid and numbered Five (5) Upon Trust for my son Abbas his heirs and assigns as tenants in common.

23. I devise unto my said Executors and Trustees All that messuage and hereditaments situate and being in Manfred Lane in Freetown aforesaid and numbered Three (3) Upon Trust for my daughter Isatu the sister of Nehneh, her heirs and assigns as tenants in common.

40

24. I devise unto my said Executors and Trustees All that messuage and hereditaments situate and being in Krootown Road in Freetown aforesaid and

numbered Thirty three (33) Upon Trust for my son Marmodu-Lee (Burnt Hand) his heirs and assigns as tenants in common.

In the
Supreme Court
of Sierra Leone

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

10 25. I devise unto my said Executors and Trustees Firstly: ALL THAT messuage and hereditaments situate and being No.48, East Street and Secondly: ALL THAT messuage and hereditaments situate and being No.9 Walpole Street Freetown Upon Trust for my son Alhadi Attumani his heirs and assigns as tenants in common.

20 26. I devise unto my said Executors and Trustees the following properties, namely: Nos.2, Pownall Street, 16-16B Little East Street, 21, Garrison Street, 6, Bambara Spring, 8, Water Street, 2, Garrison Street, 29B, Lumley Street and 1-1A, Krootown Road, Freetown aforesaid Upon Trust that they shall put them out on rent and to utilise the rents accruing therefrom for the payment of the respective rates, taxes and repairs and the balance to be deposited by them in a bank to defray the travelling expenses and maintenance of any member of my family who may come to Freetown on a visit from my home Jaber.

27. I give and bequeath all my wearing apparel and jewellery and ornaments of the person unto and to the use of all my sons herein named in equal shares.

30 28. I give and bequeath all the household furniture and effects belonging to me in any of the premises herein devised unto the respective devisees thereof.

29. I give and bequeath unto my said wife Ajah Fatmatta Katah all my cattle consisting of bullocks cows goats and sheep absolutely.

40 30. I hereby declare and empower my said Executors and Trustees to allow no sale of any of the properties herein devised and that any house devised herein and being under mortgage or any charge, such mortgage debt should be paid by my said Executors and Trustees from the rents of all my properties as well as my funeral and testamentary expenses and just debts (if any) and any legacies bequeathed by this my Will.

31. I hereby direct that during the minority of

In the
Supreme Court
of Sierra Leone

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

any of the devisees herein named my said Executors and Trustees shall rent the messuages and hereditaments devised to each of them under this my Will for the best rent obtainable and shall pay out all outgoings in respect thereof and shall pay from time to time such portion of the residue of the said rent as they shall think fit to the guardian of each devisee to be applied towards the maintenance education and support of such infant devisee subject however to the payments as mentioned in paragraph 30 of this my Will and I declare that the receipt of the guardian of any of the devisees and legatees under this my Will shall be a sufficient discharge to my said Executors and Trustees for any payment made by them or any of them.

10

32. And I further direct that during the minority of any of the devisees and legatees under this my Will my Executors and Trustees shall have power and I hereby authorise and empower them to invest all monies bequeathed or due to them under this my Will in any Bank of this Colony and shall pay from time to time such portion thereof as they shall think fit to the guardian of the respective legatee as aforesaid.

20

33. And I further declare and direct that in case any of my children herein named shall die whether in my lifetime or after my decease under the age of twenty one years or shall die in my lifetime after attaining that age but without leaving issue surviving him her or them then I direct the estate share and interest under this my Will of such child or children so dying shall go and belong to and devolve upon and become vested in my other children herein named in equal shares and as tenants in common.

30

34. I hereby declare that notwithstanding anything to the contrary herein my said Executors and Trustees shall immediately after my death pay to my wife the said Fatmatta Katah (Ajah) a sufficient sum of money for her temporary maintenance and support And I direct that she shall immediately after the expiration of four months and ten days after my death take possession of the messuage and premises devised to her herein.

40

35. I hereby declare and direct that my said Executors and Trustees shall perform the funeral rites of the third seventh and fortieth days respectively after my death as befitting my position in life.

In the
Supreme Court
of Sierra Leone

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

10 36. I further direct that my Trustees shall have the fullest power generally of determining all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts of this my Will And I further declare that any determination of my Trustees in relation to any of the matters aforesaid whether made upon a question formerly or actually raised or implied in any of the acts or proceedings in relation to the premises shall bind all parties interested under this my Will and shall not be objected to or questioned upon any ground whatsoever.

37. All the rest and residue of my real or personal estate and effects of whatsoever kind and wheresoever situate I give devise and bequeath unto my wife the said Ajah Fatmatta Katak absolutely.

20 38. I appoint the Honourable Claude Emile Wright of Gloucester Street Freetown Barrister-at-Law the Solicitor for my estate and I direct my Trustees to consult him professionally in all matters connected with my estate over which they may have any doubt

IN WITNESS whereof I have hereunto set my hand to this my Will this 30th day of August in the year of Our Lord One thousand nine hundred and forty-six

30 SIGNED AND ACKNOWLEDGED by)
the Testator as and for his)
last Will and Testament the)
said Will having been first)
read over and explained to)
the said Testator and he)
seemed perfectly to under-)
stand the same before signing)
his name in Arabic and making)
his mark thereto as herein-)
above appear in the presence)
of us present at the same)
time who in his presence of)
40 each other have hereunto sub-)
scribed our names as witness-)
es:-)

Mormordu Allie his
X mark

(Sgd.) J. Coni Dougan,
16, Skelton Street, Wilberforce.
Solicitor's Clerk.

(Sgd.) M.S. M'Cauley,
13, Regent Road, Freetown.

In the
Supreme Court
of Sierra Leone

No. 8.

Will of
Mormordu Allie.

30th August,
1946

- continued.

This Instrument was proved by the testimony
of Michael S. Macauley within named to be the Act
and Deed of Mormordu Allie before me this 3rd day
of March, 1948 at 10 o'clock in the forenoon.

(Sgd.) W.S. Young

Deputy Registrar General for the
Colony of Sierra Leone.

This Instrument is registered as No.7 at page
118 in Volume 20 of Wills.

The Office of the Registrar-General Freetown.

10

(Sgd.) W.S. Young

Deputy Registrar General.

No. 9.

Codicil to Will
of Mormordu
Allie.

19th July 1947.

No. 9.

CODICIL TO WILL OF MORMORDU ALLIE

I, MORMORDU ALLIE of No. 8 Magazine Street, Free-
town in the Colony of Sierra Leone, Butcher, here-
by declare this to be a Codicil to my last Will
and Testament dated 30th August, 1946 WHEREAS in
paragraphs two and sixteen of my said Will I de-
vised certain hereditaments and premises therein
described unto my said Executors and Trustees upon
trust for my daughter Sock-Nah otherwise called
Sock-Nali I HEREBY CANCEL the said devises to
the said Sock-Nah otherwise called Sock-Nali And
I hereby devise the said hereditaments and premis-
es as described in the said paragraphs two and
sixteen of my said Will unto my said Executors and
Trustees Upon Trust for my daughter Kadiah at
present residing at Madina her heirs and assigns
as tenants in common.

20

30

AND in all other respects I confirm my said
Will

IN WITNESS whereof I have hereunto set my
hand this 19th day of July in the year of Our Lord
One thousand nine hundred and forty seven

SIGNED AND ACKNOWLEDGED by)
the Testator as a Codicil to) Mormordu Allie X
his last Will the said Codicil) mark
having been first read over and)

explained to the said Testator)
and he seemed perfectly to)
understand the same before)
signing his name in Arabic and)
making his mark thereto as here-)
inabove appear in the presence)
of us present at the same time)
who in his presence and in the)
presence of each other have)
10 hereunto subscribed our names)
as witnesses :-

(Sgd.) J. Coni Dougan,
16, Skelton Street, Wilberforce.
Solicitor's Clerk.

(Sgd.) M.S. M'Cauley,
13, Regent Road, Freetown.

This Instrument was proved by the testimony
of Michael S. Macauley within named to be the Act
and Deed of Mormordu Allie before me this 3rd day
20 of March 1948 at 10 o'clock in the forenoon.

(Sgd.) W.S. Young,
Deputy Registrar General for the
Colony of Sierra Leone.

This Instrument is registered as No.8 at Page
119 in Volume 20 of Wills in the Office of The
Registrar General, Freetown.

(Sgd.) W.S. Young,
Deputy Registrar General.

This is the Codicil referred to in the Affidavit
30 of Ahmed Alhadi sworn to on the 10th day of March,
1948 and marked "B".

(Sgd.) E. Cummings John,
A COMMISSIONER FOR OATHS.

PLAINTIFF'S EVIDENCE

No. 10.

W. S. YOUNG

Cyrus Rogers Wright opens case for Plaintiff. This
is a consolidated action for the revocation of
certain voluntary Conveyances each of them dated
15th July, 1948 and expressed to be made between

In the
Supreme Court
of Sierra Leone

No. 9.

Codicil to Will
of Mormordu
Allie.

19th July 1947
-- continued.

Plaintiff's
Evidence.

No.10.

W.S. Young.

In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.10.

W.S. Young
- continued.

Ahmed Alhadi Administrator of Estate of one Momodou Allie and the Defendant.

Alhaji Momodu Allie (Deceased) died in Freetown on 22.1.48 leaving a Will dated 30.8.46 which was confirmed by a Codicil dated the 19.7.47.

In March - 10th of March 1948 I/A with Will annexed were granted to O.A. Three months after this there purported to have been drawn up a Deed of Family Arrangement, the existence and validity of which we deny. This Deed of Family Arrangement was said to have been drawn up between the Defendant on the one hand and the O/A (Official Administrator) acting as the Trustee for Alhaji Antumani Allie. On the very next day i.e. 15th July, several conveyances were made conveying all the properties the subject matter of this action to the Defendant in fee simple absolute.

10

As to the Family arrangement, not one of the surviving lawful children of Momodou Allie had notice of Deed or consented to this. In breach of the Administration of Estates Ordinance there was the disposition of property comprised in the estate of an intestate without the consent of all parties beneficially interested. There was no Order of Court ordering the disposition. I refer to para. 2 of S/C C.C.310/60 which sets out the devise in Will of Momodou Allie. I refer also to para. 2 of S/C 311/60 as well. The effect of the devises in paras. 4 and 13 of Will was to give the Defendant a life interest in the properties enumerated there. The effect of para.25 of Will was to give a fee simple absolute to the deceased Antumani Allie.

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We will produce evidence that the deceased Antumani was born in March of 1931 or thereabouts. When Conveyances were signed deceased was an infant not more than 18 years. He therefore had no power of disposition. Even if he had, the disposition was obtained by the undue influence of the Defendant his mother. The effect of Conveyances was to deprive himself of every kind of patrimony he had under his father's Will. The joint effect of all this is to make Conveyances useless. The Defendant has since disposed of one of these properties - 46 East Street. We are therefore asking Court to set aside Conveyance on the grounds mentioned in our 2 S/Cs.

40

Examination.

1st Witness: S.O.B. States:- My name is William

Sylvester Young, 6 Rush Street Freetown, Acting Master and Registrar Supreme Court. I am custodian of all records, files documents and proceedings in the Supreme Court.

I produce the following:-

(1) Case file C.C.320/60 Hajah Fatmata Kata Pl.
vs.

Ibrahim Momodou Allie Defendant

10 In this file there are Interrogatories dated 21.9.60 and the Answers to them dated 2.12.60. There are also further Interrogatories dated 5.12.60 and further Answers dated 8.12.60. I tender file - Exhibit 'A'.

(2) Letters of Administration with Will annexed dated 10.3.48. I produce and tender it - Exhibit 'B'.

M.C.Marke: I may cross examine this witness later on if I find it necessary.

No. 11.

20

H. S. MACAULEY

30 2nd witness: S.O.B. States - My name is Henry Steady Macauley, 2 Campbell Street, Freetown. I am Registrar of Births and Deaths Freetown. I am custodian of all register of births and deaths in Freetown. I have in my possession Vol.39 of the Register of Births and Deaths Freetown. I produce and tender it - Exhibit 'C'. At page 118 there is a record of a birth of a female child dated on 6th December 1929 to one Sokonah Tarawalley of 46 Rawdon Street. I see this document shown to me. It is a certified copy of the entry at page 118 to which I have just referred. I produce and tender it - Exhibit 'D'.

M.C.Marke: I may cross examine witness later if I find it necessary.

In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.10.

W.S. Young

Examination
- continued.

"A"

"B"

No.11.

H.S. Macauley.

Examination.

"C"

"D"

In the
Supreme Court
of Sierra Leone

No. 12.

S. TARAWALLEY

Plaintiff's
Evidence

No.12.

S. Tarawalley.

Examination.

3rd Witness: S.O.K. States:- My name is Sokonah Tarawalley 17, Martin Street, Freetown, Trader. I knew Mormodu Allie. He was my husband. I am one of his widows. I know Hajah Fatmatta Katah. She was also one of the wives of Mormodu Allie. I am older than she. Mormodu Allie first got married to me and afterwards got married to her. I was Mormodu Allie's first wife. More than twelve years elapsed after my marriage before Mormodu Allie got married to Defendant. I had a female child called Kadia. She has since died. She was my husband's daughter. When I was carrying I lived the whole time with my husband. I however delivered at my father's house at Rawdon Street. I had in all seven children. Four have since died. A man called Samba Conteh reported the birth of my daughter Kadia. I knew Antumani Allie. He was the son of Defendant. I remember when he was born. My daughter was born before Antumani. There was about 8 to 9 months difference between the ages of Kadia and Antumani Allie who is now dead. After I got Kadia I went back to live with my husband at Magazine Cut. Defendant Hajah Fatmatta Katah was also living at Magazine Cut. When it was time for her to have her child - Antumani Allie, she went to live at her mother's house at Elba Street where she delivered the child. After Defendant got her baby she returned to Magazine Cut and we all continued to live together. We lived together all of us until our husband died. Defendant never had another child apart from Antumani Allie until our husband died. During this whole time both of us wives lived together until our husband died.

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Cross-Examination deferred

No.13.

A.H. Sanusi.

Examination.

No. 13.

A. H. SANUSI

4th Witness: S.O.K. States: My name is Abdul Hakeem Sanusi, 73 Sackville Street, Freetown, Civil Servant, Clerk Registrar General's Office. I am here as the Representative of the Registrar General. I have in my custody the Register of Conveyances for lands conveyed and registered in the Colony.

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I have in my possession Vol.158 of Conveyances. I produce and tender it - Exhibit 'E'. Pages 129, 130, 131, 132, 133 and 135 contain Conveyances from Ahmed Alhadi Administrator of the Estate of Momordou Allie (Deceased) on behalf of Alhaji Antumani Allie a beneficiary to Hajah Fatmatta Katak "Purchaser" as she is described. The conveyances relate to the following properties respectively, namely, 46 East Street, 6 Magazine Cut, 48 East Street, 23 East Street, 50 East Street and 2, Kissy Road all in Freetown.

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The Conveyances of all these properties except the one relating to No.2 Kissy Road were prepared by Mr. C.O.E. Cole Solicitor. That relating to 2 Kissy Road was prepared by Mr. C.J. Kempson Solicitor. Mr.C.O.E.Cole is now a Judge of the Supreme Court.

No Cross-Examination by Marke:

No. 14.

M. KALLAY

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5th Witness: S.O.K. States: My name is Mucktarr Kallay, 5 Elba Street, Trader. I know Defendant. She is my sister by the same mother. I knew she got married to Momordou Allie (Deceased). Before this she had previously been married to someone else who died. She re-married Momordou Allie after death of former husband. After she married Momordou Allie, she got a male child for him. She had only one child of this marriage. She gave birth at 1, Elba Street. This street is usually known as Elba Corner. The house 1, Elba Street is our family house. Defendant did not give birth to another child - a baby girl, after the birth of her son. If she had got one, I would have known. The son's name was Antumani. He is now dead.

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I certainly of my own knowledge would deny that Antumani was born at Crook Street. He was born at Elba Street. Before Defendant married, her family name was "Mansaray". She got married to a man called Haruna Nicol. Defendant used to call herself Fatmatta Mansaray. When Defendant got married to Momordou Allie, she began to call herself Fatmata Katak. The name "Katak" is the Bambara equivalent of "Mansaray". The name Mansaray

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In the Supreme Court of Sierra Leone

Plaintiff's Evidence.

No.13.

A.H. Sanusi.

Examination - continued.

No.14.

M. Kallay.

Examination.

In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.14.

M. Kallay.

Examination
- continued.

is mandingo. Its equivalent in Bambara is "Katah".
I have never heard Defendant called or described
as Fatmatah Madingo. If Defendant had delivered
any child other than Antumani, I would have known.
We all lived in Freetown and close to each other.

Mr.Marke reserves cross examination of this wit-
ness.

Adjourned to 25.1.61.

(Sgd.) S.B. Jones, J.

Wednesday 25th January 1961.

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Before the Hon. Mr. Justice S.B. Jones, P.J.

Cyrus-Wright for Plaintiff.

M.C. Marke and now with him E.J.McCormack for De-
fence.

M.C.Marke: I do not intend to cross-examine P.W.1
- the Master and Registrar.

No.15.

H.S.Macauley.
(Recalled)

Cross-
Examination.

"F"

"G"

No. 15.

H. S. MACAULEY

2nd Witness Cross-Examined by Marke S.O.B. States:
I have in my possession the Register of Births and
deaths in Freetown for the year 1927. I have an
entry at page 23 in Vol.37 of the Register of
Births. I see this document you have passed to me.
It is a correct and certified extract of the birth
of a child recorded at page 23 of Vol.37. I pro-
duce and tender it - Exhibit 'F'.

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I have another entry at page 109 of Vol.37 of
the Register of Births. I produce and tender the
correct and certified copy of the extract from the
pages and Volume just mentioned - Exhibit 'G'.

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No.16.

S.Tarawalley
(Recalled)

Cross-
Examination.

No. 16.

S. TARAWALLEY

3rd Witness Cross-Examined: by Marke S.O.K. States:
I gave evidence yesterday in this case. I said I
had seven children. Their names are Abu Bakarr,
Kemoh Allie, Nenneh, Kadia, Isata, Brima, Hashmir.

I cannot tell the dates of the birth of any of the children. I cannot read or write. My daughter Kadia was a beneficiary under the Will of my late husband. I know that the Official Administrator administered the estate of my late husband. He was the late Mr. Ahmed Alhadi. Another Administrator who continued to administer the estate was a European Mr. J.W. Large. I did not at any time see Mr. Large about my daughter's inheritance. I did not even know Mr. Large. I did not give him the Birth Certificate of my daughter. I do not know if Mr. Large swore to any Affidavit that I gave him the birth certificate of Kadia. I cannot tell you when my daughter Kadia was born. She was born at Rawdon Street. I knew one Haruna Tarawalli. He was my brother. He is now dead. I do not remember whether he gave information about the birth of any of my children. It was one Samba Conteh now deceased who gave information about the birth of my daughter Kadia. The name Sokonah is a Sarakuli name. I am a Sarakuli. The name "Sokonah" is sometimes called "Sonnah". Some people call me Sokonah and others Soknah. My husband used to call me Sokonah.

When I married Momodou Allie, we first lived at No.6 Martin Street. When No.6 got burnt down, I went over to No.17 Martin Street. I have never lived at 50 Rawdon Street. Whenever I go there, it is to give birth to my children. Always after birth, Defendant and I lived for sometime with our husband at 6 Martin Street. After the fire whilst I alone moved to 17 Martin Street, my husband and Defendant moved to 8 Magazine Street. It is true that from this date onwards all three of us never stayed together in the same house until death of my husband. There was only one house between the house at Martin Street and that at Magazine Street. I know all the movements of Defendant because there was only one house between us. I used to visit the house at Magazine Street regularly. My husband was ill for some time before he died. I left my house during the period and stayed at 8 Magazine Street until he died. Defendant was in the house the whole time. It is not true that Defendant sent to me in my house to inform me of death of my husband. She sent to tell me when he was ill and from that day I moved over and never went back to my house until he died. At the time Defendant was expecting Antumani we were living at 6 Martin Street. When she was about to give birth, she went to her

In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.16.

S.Tarawalley
(Recalled)

Cross-
Examination
- continued.

In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.16.

S.Tarawalley
(Recalled)

Cross-
Examination
(Continued)

Re-Examination.

mother's house, at Elba Street. I visited her there before and after she gave birth.

Re-Examined: I had already given birth to Kadia before Defendant became pregnant for Antumani. I had three girls, Nenneh, Kadia and Isata. Nenneh was the eldest, Kadia came next and Isata the last of the girls. By the time Antumani was born, I had given birth to Nenneh and Kadia. When I got Nenneh, Defendant had not yet been married to my husband. My late brother was called Haruna Tarawalli. Defendant's late brother was called Haruna Nicol. He is sometimes also called Haruna Rashid. Magazine Street runs south from Fourah Bay Road to North. Martin Street is one of the streets that cuts it across. The distance between No.8 Magazine Street and 17 Martin Street is not far at all. If Defendant had become pregnant when she was living at 8 Magazine Street and I at 17 Martin Street I certainly would have known because I used to visit her home regularly.

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4th Witness Abdul Hakim Sanusi: No Cross-Examination.

No.17.

M. Kallay
(Recalled)

Cross-
Examination.

No. 17.

M. KALLAY

5th Witness: Muktarr Kallay Cross-Examined S.O.K. States: I gave evidence here yesterday. I said the Defendant is my sister and so she is. She is my half sister as I said. I have never at any time heard my sister refer to herself as Fatmatta Madingo. I have never had anyone refer to her as Fatmata Madingo. I was educated at the St. Edwards School and the Prince of Wales School Freetown. I know that Defendant was twice married. She had a female child by her first husband. That child died. I am not now on the best terms with Defendant. This bad blood did not commence when Defendant objected to my collecting the rent for one of her properties. I was in the building at 1, Elba Street when Defendant gave birth to Antumani. At that time, I lived at 1, Elba Street. Now I live at 5, Elba Street. I was very well acquainted with Antumani now dead. When he had grown up on or about 1957 I bought a house from him. The house is numbered 8 Magazine Street. I cannot now remember how much I paid for the house.

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I paid over a thousand pounds for it. I sold it at a profit of about £100 about two or three months after I had bought it. I cannot now remember if I make over £600 profit. This property normally belonged to estate of Momordou Allie.

In the Supreme Court of Sierra Leone

Plaintiff's Evidence.

No.17.

Cyrus Rogers-Wright applies to ask a question through Court

M. Kallay (Recalled)

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Question: The first husband of Defendant was called Haruna Nicol. Was he known by any other name during his lifetime?

Cross-Examination - continued.

Answer: Yes. He was also called Haruna Rashid. Adjourned to 27.1.61.

(Sgd.) S.B.Jones, P.J.

Friday 27th January 1961.

Before the Hon. Mr. Justice S.B. Jones, P.J.

Cyrus Rogers Wright for Plaintiff.

M.C. Harke with him McCormack for Defendant

No. 15.

EVIDENCE of I.M.ALLIE

No.18.

I.M. Allie. Examination.

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6th Witness: S.O.K. States: Ibrahim Momordou Allie 7, Guard Street, Freetown Trader. I know Defendant. She is one of the widows of my father. My father died on 22.1.48. There are 12 lawful children of his now alive. I am the eldest lawful son. I know Antumani Allie now deceased. I am the Administrator of his estate - see Exhibit 'A'. I was never served with any notice of any matter in Court between the Defendant and Antumani Allie before his death. I knew of no family arrangement or compromise, which affected the estate of my late father, between Defendant and Antumani Allie. For a period of three years before my father's death, I saw Defendant almost every day. Apart from Antumani Allie Defendant did not get another child for my late father. I knew when Antumani Allie was born. After his birth up to three years after, neither I nor Defendant left the country. During this period I saw her regularly - every day in fact. She was never at any time during this period expecting a child. I saw Antumani grow up. My late father sent him away to attend school in Egypt.

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In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.18.

I.H. Allie.
Examination
- continued.

He returned home in 1946, and my father sent him to the Albert Academy School. He left this School in 1950. After he left school he was not employed. He did nothing. He lived with his mother after he left school for a few months, after which he went to live with a middle aged woman at Regent Street as her guardian. After my father died in 1948 Antumani lived with Defendant until he left school. Defendant was financially responsible for his school fees and upkeep. She bought his clothes etc. etc. When Antumani went to live with the woman at Regent Street, Defendant was still responsible for his upkeep. The woman's name is Titi Jargoon. She is still alive. Antumani lived with this woman until he died in May 1959. He did not work at all during this period. He used to get money monthly from his mother and sometimes from us his brothers. We were most displeased because he refused to learn any trade. We were all Mohammedans.

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I knew the late Ahmed Alhadi. He was at one time Official Administrator. It was he who administered my late father's estate. He was also Master of Court.

Question: Apart from their official relationship as Official Administrator and Beneficiary was there any personal relationship between Ahmed Alhadi and the Defendant?

Marke: I object to this question because the inquiry before Court relates to the Official acts of Alhadi as they affect dispositions made to the Defendant's son Antumani Allie. Whatever the relationship that might have existed between Alhadi in his private capacity and the Defendant whether friendly or otherwise, could not be said to be such as to constitute male fides in his official capacity. Even if the relationship were of a friendly nature, this would be in the aid of Antumani Allie and not against his interest as Antumani Allie was only child of Defendant. The old lag is applicable here "Love me, love my dog".

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Rogers-Wright: At paragraph 7 of my S/C I alleged collusion between Defendant and Ahmed Alhadi and impute male fides to the latter. In order to explain his male fides and how he came about to collude with Defendant, evidence of this relationship is relevant. In effect we are saying he was a bad trustee and we are explaining how he came about to be a bad trustee.

Marke: Male fides in a trustee is a different matter from the personal relationship between a trustee and Castui Que trust.

In the
Supreme Court
of Sierra Leone

Court: The matter which the question is intended to disclose are to my mind relevant to the issue in this case in view of the pleadings of Plaintiff imputing male fides on the part of an Official Administrator. I therefore allow the Question.

Plaintiff's
Evidence.

No.18.

I.M. Allie.

10 Witness continues: The relationship between Alhadi and Defendant was that of husband and wife just after my late father's death. I knew Alhadi's house. After my father's death Alhadi used to visit my father's house at No.8 Magazine Street where Defendant lived. He used to sleep in the house. We, the children grew annoyed and used to grumble at the conduct of Alhadi. Even Antumani used to grumble. We all, including Antumani spoke to Defendant and told her we did not like Alhadi visiting her in the house and sleeping. We told
20 her that she must stop his visits. We wrote Alhadi a letter posted A.R. and we received the return card showing that he had received it. Alhadi however continued to visit Defendant. Again we wrote him another letter A.R. We received the card in return showing he had received this other letter. Still he continued visiting Defendant in the house and sleeping. One day Alhadi went to the house and I went in and spoke to him. He admitted he had received our letter telling him not to come to the
30 house again to visit Defendant. Defendant was herself present during this conversation. Alhadi said to me "Have you not read the Will of your father, No.8 belongs to Hajah (Defendant)". I was standing at the Porch speaking to Alhadi. Defendant came and met me at the Porch and pushed me out. Alhadi also came up followed by Defendant's house-boy and they all gave a good beating. When I got home I told my brothers. Almost three weeks after, about eight of us brothers went to Defendant's
40 house late in the afternoon. We met Alhadi sleeping. Defendant woke him up. He came out from my late father's bedroom and this was the room Defendant was using as her bedroom. Alhadi came out in pyjamas. We ejected him by force and threw him out. We sent his coat, trousers and shirt after him. That night we were all arrested including Antumani. We were taken to the Eastern Police Station. Between 9 p.m. and 10 p.m. Mr. Alhadi and Mr. M.C. Marke Counsel for Defendant in this

Examination
- continued.

In the
Supreme Court
of Sierra Leone

Plaintiff's
Evidence.

No.18.

I.M. Allie.
Examination
- continued.

Cross-
Examination.

case went to the Eastern Police Station and they asked that we all be charged except Antumani. Antumani was taken away and we were charged. The next day Mr. M.C. Marke prosecuted us in the Magistrate Court. The case was committed to the Supreme Court. Mr. Marke prosecuted us also in this Court. We were all acquitted.

Cross-Examined by Marke: I am conversant with Will of my late father. All the properties the subject matter of this action were not specifically devised to me. No.9 Walpole Street was also not specifically devised to me.

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My brother Antumani died sometime in May 1959. He was then of full age. I know Defendant very well. She was one of the Executors of Will of my late father. She renounced it in favour of Alhadi the O/A. In the life time of my father, Defendant was not managing his business. I ran the business. The Defendant took no part in the running of the business. Defendant was the wife who lived with my father in same house during his lifetime. She had access to him at all times. I do not know whether my father privately took counsel with Defendant.

20

On one occasion I with others attacked Alhadi at No.8 Magazine Street. The Defendant has a sister. She was not living in same house as Defendant. The sister's name is Mariama Sanusi. I cannot tell whether at the time of the incident between Alhadi and ourselves. Mariama Sanusi had just lost a son. It may well be that friends of Defendant may have called on her to sympathise for the death of her nephew. It is not true that the visits of Alhadi to Defendant were innocent visits and not illicit ones. It is true that Alhadi and Defendant were living as husband and wife. We did not like the contents of the Will of my late father. This was not why we beat up Alhadi. We did not conceive a dislike for Alhadi because he was administering estate. I felt he was in such a position where he should only show a general interest but not any particular and personal interest in anybody. The Will did not bequeath my father's wife to him. I had no personal dislike for Alhadi. He allowed his official duties to be influenced by his relationship with Defendant. We did not really beat up Alhadi. We ejected him from our father's house.

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I have a brother called Kemokoh Allie. He bought a property from someone to whom Antumani Allie had sold it.

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No. 19.

EVIDENCE OF B. ALLIEIn the
Supreme Court
of Sierra LeonePlaintiff's
Evidence.

No.19.

B. Allie.

Examination.

10 7th Witness: S.O.K. States: My name is Baba Allie, 15, Magazine Cut, Trader. I am the second eldest lawful surviving son of Momodu Allie (deceased). I know Defendant. Before his death I knew Antumani Allie. He was my younger brother. He attended School in Egypt. I went to school in Egypt for three years. I returned home and went to Senegal. I lived in Senegal for about 20 years and returned home in 1947. When I came back I met Antumani Allie. He was attending the Albert Academy School. My father died in 1948. Antumani was still going to School. After the death of my father, Antumani continued to live with his mother, the Defendant until he left School I think the next year. The Defendant was all this time responsible for his upkeep, fees etc.

20 After he left School Antumani did nothing. Defendant kept upkeeping him. I sometimes give him money until his death in 1959 he was never once employed anywhere and was a wayward.

I was one of the persons appointed Executors of my father's estate. I and the others renounced Probate. At no time did I receive Notice of any family arrangement or compromise between the Defendant and Antumani Allie. I received no notice of any Court proceedings of any family arrangement or compromise.

30 Cross-Examined by Marke: I knew Antumani Allie very well. We were on the best of terms up to his death. I knew all he was doing. Antumani Allie under the Will was well provided for. He sold one of his properties to Muktarr Kallay. I used to help out Antumani occasionally, mostly at week-ends. I used to entertain him as my guest at week-ends and provide him with money. I did for him what an elder brother would do for his younger brother. In point of fact I agree with you that Defendant was maintaining Antumani. She had to do it because she had got conveyed to herself all his properties.

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Cross-
Examination.

In the
Supreme Court
of Sierra Leone

No. 20.

EVIDENCE OF A. ALLIE

Plaintiff's
Evidence.

No.20.

A. Allie.

Examination.

3th Witness: S.O.K.States: My name is Abass Allie, 5, Jenkins Street, Trader. I knew Antumani Allie. I am one of the lawful children of Momordou Allie. I know Defendant. I knew of no family arrangement or compromise between Antumani Allie and Defendant. I received no notice of any Court proceedings relating to any such family arrangements. As far as my knowledge goes my other brothers and sisters knew nothing of such family arrangement or compromise, nor received any Court notice relating to such arrangement or compromise.

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Cross-
Examination.

Cross-Examined by Marke: I was dissatisfied with Will of my late father and we took proceedings in Court. Mr. Cyril Bunting Rogers Wright was the Solicitor acting for some of us brothers and sisters. I do not know whether there were any proceedings in Court regarding the trusts created by my father for Antumani Allie.

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Case for the Plaintiff

Adjourned to 30.1.61 at 9.30 a.m.

Monday 30th January 1961.

Before The Hon. Mr. Justice S.B. Jones, P.J.

Cyrus Rogers Wright for Plaintiff

M.C.Marke and E.J.McCormack for the Defendant.

Defendant's
Evidence.

No.21.

A.H. Sanusi.

DEFENDANT'S EVIDENCE

No. 21.

A.H. SANUSI

Marke opens case for Defence.

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By a Deed of Family Arrangement concluded between Defendant, the Official Administrator as administrator of estate of Momordou Allie and acting as Trustee of the trusts created by the Will and Antumani Allie, named in Will as Alhadi Allie, certain arrangements were arrived at. The terms of the arrangement were brought before Court for approbation. Counsel appeared in opposition to

the application and on 14.7.48, the Court made an order approving terms of family arrangement. As a result of the order of Court the deed of Family arrangement was drawn up and executed by Defendant on the one side and the Trustee Ahmed Alhadi as Trustee of the other side. This deed was registered in office of Registrar General. In order to carry out the arrangement arrived at and approved by the Court and embodied in Deed of Family Arrangement, the Conveyances which the Plaintiff seeks to set aside were made. None of these properties was devised to any of the persons who are claiming as the next of kin in the event of the intestacy of Antumani Allie deceased. The Plaintiff is a stranger to the Deed of Family Arrangement. Even if the Deed of Family Arrangement had been executed by Antumani Allie as an infant there is evidence that he died in 1959 without setting aside any of the Conveyances. At the highest, the deeds are voidable and not void. They can only be set aside at the instance of Antumani Allie himself. The Deed of Family Arrangement was regularly obtained and no steps were taken by Antumani Allie to set aside the Conveyances. There is no evidence that anyone had practised deceit on Court in obtaining the order for the Deed of Family Arrangement to be drawn up. We say Conveyances made in pursuance of deed are valid and should not be set aside.

In the
Supreme Court
of Sierra Leone

Defendant's
Evidence.

No.21.

A.H. Sanusi
- continued.

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1st Witness: S.O.K. States: My name is Abdul Hak-
eem Sanusi Civil Servant, Clerk in the Registrar
General's Office. I am here as a representative
of the Deputy Registrar General. We have the cus-
tody of all deeds and documents registered in Sa.
Leone. I have Vol.i of Miscellaneous instrument
registered. At page 7 No.5 there is a deed dated
14.7.48 made between Hajah Fatmatta Katah, Alhadji
Antumani and Ahmed Alhadi. I produce and tender
it - Exhibit 'R'.

Examination.

"H"

Cross-Examined: The deed which is purported to
have been made between Hajah Fatmatta Katah, Alhadi
Antumani and Ahmed Alhadi is signed only by Hajah
Fatmatta Kata and Ahmed Alhadi. We in our office
do not have to scrutinise every document when
brought for registration.

Cross-
Examination.

In the
Supreme Court
of Sierra Leone

No. 22.

W. S. YOUNG

Defendant's
Evidence.

No.22.
W.S. Young.
Examination.

2nd Witness: S.O.B. States: William Sylvester Young, Ag. Master and Registrar Supreme Court. I have the custody of all Court Records. I produce C.C. File No. 107/53. This file contains a petition of the O/A in the estate of Momordu Allie deceased. The Petition is dated 3.3.53. There is an affidavit sworn by Mr. Large the O/A in support of Petition dated 3.3.53. I produce and tender it

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Cyrus Wright: If the Petition and Affidavit of Large are intended to be put in to prove their existence i.e. as documents, I will have no objection. If however they are put in for purpose of proving the truth of what is alleged in Petition and Affidavit, they would be clearly inadmissible and I would object to their going in. In the first place they are inter alias. The Affidavit is clearly hearsay. We will have no opportunity of cross examining Mr. Large who has long ago gone out of the Colony.

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Marke: I tender document to prove the truth in Affidavit of Mr. Large i.e. that Socknah handed Mr. Large a birth certificate as her daughter's birth certificate.

Court: The purpose for which the Petition and Affidavit of Mr. Large in another case is intended to be put in as exhibits in this case, is to my mind improper. The evidence to be extracted from them is a species of hearsay evidence and inadmissible. I rule against tendering the documents in evidence.

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Witness continues: I have searched all over the place for the file In the Matter of the Estate of Momordu Allie deceased and In the Matter of the Trusts affecting Antumani (an infant). The number of file is C.C. 185/48. It cannot be found. It once existed because there is a record of it in the Cause Book. Cause Book put in and marked 'J'. I can read out the documents filed in this matter from the Cause Book. They were :-

40

"J"

(1) Affidavit in support dated 18.6.48.

(2) Summons to approve of Deed of Family Arrangement etc. etc.

There was an Affidavit filed in opposition dated 2.7.48 by C.B. Rogers Wright. As from 29.6.48 the Solicitor for the Applicant was C.O.E. Cole. The Judge's order approving Deed of Family Arrangement dated 14.7.48 was filed by C.O.E. Cole on 14.7.48.

No Cross-Examination.

In the Supreme Court of Sierra Leone

Defendant's Evidence.

No.22.

W.S. Young.

Examination - continued.

No. 23.

No.23.

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H. F. KATAH

H.F. Katah.

Examination.

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3rd Witness: S.O.K. States: My name is Hajah Fatmatta Katah, 2 Kissy Road, one of the widows of the late Momordu Allie. I was appointed one of the Executors under his Will and I with the others renounced Probate. The Court appointed Ahmed Alhadi (deceased) Official Administrator, who took out Letters with the Will annexed. I became known as Hajah after my visit to Mecca. "Hajah" is really a title. Before I was married to Momordu Allie, I was known as Fatmatta Mansaray. I am a mandingo by tribe. I have also been known as Fatmata Mandingo. Momodou Allie was my second husband. My first husband was Haruna Nicol. He was not called by any other name. I had never heard him called Aruna Raschid. I had a child for him - a girl.

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She is now dead. He died before I got married to Momodu Allie. I had two children for Momodou Allie. The first was Antumani now deceased. He was born in 1927. I gave birth to him at No. 15, Cook Street, Freetown. I have a family house on my mother's side at No.1 Elba Street. I gave birth to Antumani at Cook Street because I started my pains in the street and had to go to a house at Cook Street where I gave birth in the house of one Mammy Fartu Bundo. I stayed in this house for two days after birth. After this I went over to my mother with the baby at Elba Street. At the time of my husband's death I lived at 8 Magazine Street. After my husband's death Alhadi used to visit me occasionally at 8 Magazine Street for the purpose of discussing matters relating to the administration of the estate. We never lived together as man and wife.

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In the
Supreme Court
of Sierra Leone

Defendant's
Evidence.

No.23.

H.F. Katah.
Examination
- continued.

A Deed of Family Arrangement relating to Antumani's Estate was made. Antumani's elder brother Ibrahim Allie kept inducing Antumani Allie to sell his properties to Syrians. Antumani asked me to advance him £1,000 to repair the properties devised to him alone. The properties were houses at Magazine Street, Martin Street, Walpole Street. It was in consideration of this £1,000 that the Deed of Family Arrangement was made. After the Deed of Family Arrangement was made I gave him £1,500. Both amounts were out and out gifts.

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After the Deed was made Alhadi made certain Conveyances to me relating to the properties the subject matter of this case. Antumani did not tell me that he was going to set aside the Conveyances.

Cross-
Examination.

Cross-Examined by Rogers-Wright: The Deed of Family Arrangement was made on 14.7.48. Antumani had arrived from Egypt in 1947. At the time deed was made he was attending school. Antumani was born I think in the month of October, 1927. In July of 1948 he would be 20 years and 9 months. I did not employ a Solicitor to draw up the Deed of Family Arrangement. Alhadi was in charge. He paid the Solicitor. Under Deed of Family Arrangements 6 properties were conveyed to me out and out including No.48, East Street which had been devised to Antumani for himself. The Family Arrangement was made because Antumani wanted to sell the properties conveyed by him to me to Syrians. I did not know that Antumani had no power to sell at least five of the properties which he conveyed to me because I had the life interest in them. The Deed of Family Arrangement - Exhibit 'E' was prepared by Mr. C.O.E. Cole. I instructed him to prepare it. I paid him to do so. Mr. Cole was my Solicitor. I now say that it was Alhadi who got a Solicitor - Mr. Cole - to draw up Deed of Family Arrangement. Alhadi did everything and paid Cole. I had a lawyer Mr. Zizer. Mr. Cole read the deed to me and so did Mr. Zizer. I do not know whether Antumani had a lawyer. I now say that he had no lawyer to advise him. I do not remember whether I was told that within three months Antumani would be 21 years. I cannot read or write. I can only sign my name. I did not attend the Annie Walsh Memorial School. I understood the Deed of Family Arrangement. Antumani was present when the Deed

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was read over to me and when it was executed. I do not know why he did not sign. He heard the deed read as well. It was read in the office of Mr. Alhadi. Antumani was a grown up. I had given him £1,000 before the deed was executed and £1,500 after the execution of deed. Antumani was to repair 8, Magazine Street, 17 and 17A Martin Street No.7A Martin Street, 48 East Street and No.23 East Street. I agree that No.8 Magazine Street was left to me for life and after my death or re-marriage to Antumani.

I was the tenant for life. I agree it was my duty to repair this property. No.17 and 17A was devised to me absolutely. No.48, East Street was Antumani's absolutely. No.23, East Street was devised to me for life and after my death or re-marriage to Antumani. The £1,000 was to repair the properties I have named. The £1,500 was an out and out gift.

I do not agree that Antumani was not a party to the Deed. He knew about its terms. Alhadi used to visit me to discuss the administration of my late husband's estate. He used to visit me during the day and not at night. He never came with files or papers. He took down no notes of our discussion. I used to call at his office. His visits were about once a fortnight. Antumani did not object to his visits to me. The Plaintiff and the other children of my late husband objected to his visits. I did not drive Antumani out of the house because Alhadi said he was insolent. He and Alhadi were on speaking terms. Up to death of husband, Antumani was living with me at Magazine Street. After his father's death he used to spend some time with his aunt at Regent Street. He did not actually move from my house, he was still living with me. I agree I upkeep him throughout. Alhadi was beaten up and thrown out of my house by Plaintiff and some of his brothers. I too was beaten up. Antumani was then at Mambolo. Alhadi was not in Pyjamas. He did not come from my bedroom. I was beaten too. After this incident I moved my personal belongings to Alhadi's house. I took them to him to keep. I took for example my clothes, my chains, pans, pots, cutlery etc. I did not myself move and stay with Alhadi. I went to live with my mother at Elba Street, I took some of my things to Elba Street. I had three sisters alive who were in Freetown. All of them assisted me to take my things to my mothers and Alhadi. I did not take the things to my sisters. They lived far off. My

In the
Supreme Court
of Sierra Leone

Defendant's
Evidence.

No.23.

H.F. Katak.

Cross-
Examination
- continued.

In the
Supreme Court
of Sierra Leone

Defendant's
Evidence.

No.23.

H.F. Katah.

Cross-
Examination
-- continued.

sisters lived at Savage Square. Alhadi lived at Fifth Street Foulah Town. I agree my sisters house was not too far. I kept my things at Alhadi's because he was administering my husband's estate. I remember that my child Antumani was born in October 1927. I do not remember the year my first husband died. I do not remember the year I got married to Momodou Allie. I had two children for Momodou Allie. I do not remember what year my second child - the child of Momodou Allie was born. It was a girl. She lived for only 8 days. She was buried at Kissy Road Cemetery. I cannot produce either the birth certificate or death certificate of this child.

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My first husband Aruna Niccl and I used to live at 34, Kissy Street near Gibraltar Church. My husband was not known as Aruna Rashid. I heard Socknah and my brother in the witness box say that my husband was called Aruna Rashid. We did not have a man called Aruna Raschid living at 34 Kissy Street in 1927.

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I was present in Court when Application for the Family Agreement came up and when the judge made the order. Antumani was present. Mr. C. B. Rogers Wright appeared for Plaintiff and the other children of Momodou Allie and opposed the application. Antumani was asked if he consented and he said yes. It was in open Court, not this Court (No.2) but Supreme Court No.1. I now say that the application was not in open Court but in Chambers. Antumani and I left home together. Mr. Zizer a Solicitor was my lawyer and my son's lawyer. I do not think Antumani had another lawyer to advise him. I do not know whether he had independent advice. Antumani did not know of the existence of Exhibit 'H'. I did not get the Court's order by misrepresentation. Exhibit 'H' was not drawn up between Alhadi and myself. The Judge's order was on 14.7.48. The Agreement was drawn up on that same day and executed without signature of Antumani and on the next day 15.7.48, 5 Conveyances were made on behalf of Antumani by Alhadi to me. These Conveyances were made by Mr. Cole Alhadi and I signed each of the Conveyances. Antumani did not sign any of these. Mr. Cole was Alhadi's lawyer.

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Question: Why did you not wait until Antumani was 21 to convey the properties to you. He would have been 21 in about three months time according to you.

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Answer: I was afraid he would have sold these properties. I agree I sold 46, East Street to a Syrian myself.

Adjourned to 31.1.61.
(Sgd.) S.B. Jones.

In the
Supreme Court
of Sierra Leone

Defendant's
Evidence.

No.23.

Tuesday 31st January 1961. Cor: S.B.Jones, P.J.

All parties present

H.F. Katah.

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3rd Witness Continued S.O.K. states: I did say Antumani was not concerned in the incident in which Plaintiff and others assaulted Alhadi. He was not one of those taken to the Eastern Police Station. He was at Mambolo. I do not remember whether he gave evidence for the Plaintiff in this present case when the case came up.

Cross-
Examination
- continued.

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Re-Examined: Aruna Nicol lived at Kissy Street opposite Gibraltar Church. I knew a man called Aruna Raschid. He was the brother of Sockna. He also lived at Kissy Street not far from where we lived. The properties mentioned in the Deed of Family Arrangement which I made over to Antumani were 17, 17A and No.16 Martin Street, 8 Magazine Street and 9 Walpole Street. The properties devised to me under the Will were 17 and 17A Martin Street. I had a life interest in No. 8 Magazine Street. Under Deed of Family Arrangement that property passed out of my hand to Antumani.

Re-Examination.

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By Court: I gave Antumani £1,000 before the Deed of Family Arrangement was executed. After the execution of the Deed, I handed him £1,500 I think in cash.

Antumani was present when the Deed of Family Arrangement was executed. There was no Judge present. I do not remember whether Antumani was asked to sign the Deed. It was read over to him.

I cannot now tell what Judge white or black made the order approving the Deed of Family Arrangement. Alhadi used to visit me at home before the Deed of Family Arrangement was made and before the Conveyances on this Deed were executed.

In the
Supreme Court
of Sierra Leone

No. 24.

A.H. SANUSI

Defendant's
Evidence.

No.24.

A.H. Sanusi
(Recalled)

Examination.

"K"

"L"

"M"

1st Witness recalled: S.O.K. States: My name is Hakeem Sanusi. I gave evidence here yesterday. I produce and tender Vol.126 of Register of Conveyances at page 94. In this page is to be found a Conveyance between Alhadi Antumani and Boye Kamara in respect of property at Martin Street. The number of the premises is not stated - put in and marked 'K'. The date of the sale was 18.9.54. I also produce and tender Vol.180 of Register of Conveyances. At page 114 is to be found a Conveyance between Official Administrator and Alhadi Antumani in respect of property at 8 Magazine Street. It is dated 14.9.54 - Exhibit 'L'. Also at page 117 of same volume is to be found a Conveyance between Alhadi Antumani alias Osman Allie and Mucktarr Kallay - put in and marked 'M'. It is dated 5th August 1956. The Conveyance is in respect of property at 8 Magazine Street. The Deed of Family Arrangement is also recited in this Conveyance.

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No Cross-Examination.

No.25.

Application by
Plaintiff to
Amend
Statements of
Claim.

31st January,
1961.

No. 25.

APPLICATION BY PLAINTIFF TO AMEND STATEMENTS
OF CLAIM

Rogers Wright: Before Defence closes case I would like to make the following applications -

- (1) To delete the following in para.7 S/C in C.C. 310/60. "And by the exercise of undue influence Mormodu Allie (deceased)"
- (2) To delete the following in para.8 from "At a time when coercion of the Defendant".
- (3) To add the following immediately after the words "executive by" the words "Ahmed Alhadi was with the consent knowledge and approval of"
- (4) To delete the words "..... obtained from an infant" and substitute the "an infant's" in place of word "his" and delete the words, "..... and by undue influence".

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(5) To delete the following in para.8 of S/C in C.C. 311/60 "..... and by the exercise of undue influence Momodou Allie deceased".

In the
Supreme Court
of Sierra Leone

(6) To delete the following in para.9 the words "..... and unable to appreciate and coercion of the Defendant".

Defendant's
Evidence.

(7) To delete in para.13 the words "obtained from an infant" and substitute the word "infants" for the word "his" and to delete the words "..... and by undue influence".

No.25.
Application by
Plaintiff to
Amend
Statements of
Claim

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Marke: I object to the application. It should have been made at close of Plaintiff's case.

31st January,
1961
- continued.

Rogers-Wright: I withdraw my application and I give notice that in my argument I will not rely upon parts of my Statements of Claim, namely, those portions which allege execution by Allie Antumani of the Deed of Family Arrangement and the Deeds of Conveyance.

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Marke: Counsel is saying that in consequence of the evidence he seeks to abandon certain parts of his S/C. This amounts to asking for an amendment. At this stage, Plaintiff may not do such a thing. Refers 1927 Edition of the White Book - Order 28 Rule 1 at page 457. Such an amendment will introduce a new case. Our case has been concluded. The hour is too late for the application.

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Rogers-Wright: We allege that signature of Allie Antumani was obtained by undue influence. It is now quite clear that Allie Antumani signed no document. It is unnecessary for me to prove that if he signed he signed by undue influence. I am not relying on what I now consider a surplusage. This is not an application but merely an information to the Court.

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Court: If what Rogers-Wright has said is merely in the nature of an information to the Court, there can possibly be no objection to his omitting that part of his case on his S/C which he considers unnecessary. I do not consider this an application to amend. Counsel on the other side may make any comment he likes on such an omission. This matter therefore does not call for a ruling.

(Sgd.) S.B. Jones, P.J.

In the
Supreme Court
of Sierra Leone

No.25.

Application by
Plaintiff to
Amend Statements
of Claim

31st January,
1961
- continued.

No.26.

Addresses to
Court.

1st and 2nd
February, 1961.

Marke: I ask for an adjournment.

Rogers-Wright: I oppose it.

Court: I grant the adjournment sought.

Adjourned to 1.2.61.

(Sgd.) S.B. Jones, P.J.

No. 26.

ADDRESSES TO COURT

Wednesday 1st February, 1961.

Before the Hon. Mr. Justice S.B. Jones, P.J.

All parties present.

M.C. Marke addresses Court: The two actions -
310/60 and 311/60 have been consolidated by Order
of Court.

The properties are mentioned in S/Cs. No. 2
Kissy Road should not properly form the subject
matter of the claims. All powers conferred on Ex-
ecutors of Will of Momordou Allie devolved on Al-
hadi when he took out L/A with Will annexed.

Deed of Family Arrangement dated 14th July,
1948: O/A consented to this deed as Trustee of
Will and Trustee of Antumani who was then an in-
fant. Plaintiff complains that neither he nor
other members of his family were given notice of
this Deed. The Deed discloses that it affects
properties belonging either to Defendant or her
son. Not one of the other beneficiaries took an
interest in any of these properties. Under the
terms of Will, their concurrence or consent to the
terms of any arrangement made between the Defend-
ant and her infant son respecting properties owned
by either of them does not call for any notice to
be given to any of the other beneficiaries under
Will of Momordou Allie deceased.

Refers Halsburys Laws of England 2nd Ed. Vol.
15, Page 12.

(ii) It is said that the Deed of Family Arrange-
ment was prepared by the Solicitors of the Adminis-
trator. Refers Halsburys 2nd Ed. Vol. 15 Page 16
Para.22 p.16. In case of an infant, the Trustee
stands in his place and the Solicitor of the Trus-
tee can act for him.

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(iii) The Deed recites three parties but only two parties of the three executed the Deed, i.e. Defendants and Trustee (Alhadi). In general if there are non-executing parties to a deed, and the non-executing parties takes benefit under it they are bound by the obligations under the deed. Refers (a) Elliston v. Reacher 1908, 2 Ch.665 at p.673. (b) Chambers v. Randall 1923 1 Ch.149.

In the
Supreme Court
of Sierra Leone

—————
No.26.

Addresses to
Court

10 The fact that Antumani did not execute the Deed does not invalidate it. His Trustee on his behalf executed it.

1st and 2nd
February, 1961
- continued.

In deed reference is made to certain discretionary powers given to the Trustee of his Will. See para.36 of Will. The O/A stood in shoes of Trustee. In the Deed it is clear that the Trustee consented to the arrangement arrived at between Defendant and her son. He acted by virtue of the discretion given to him under Will of Testator.

20 Arrangement in Deed: The Defendant was to provide a fund for the advancement of his son in life. She was also to provide a sum of not more than £1,000 to enable him to carry out repairs on 9 Walpole Street, property left to him under the Will. There is thus evidence of consideration for deed. Also the Defendant parted with property to Antumani which had been devised to her alone - 17 & 17A Martin Street. Defendant had a life interest in 8 Magazine Street. She parted with the whole fee simple to Antumani.

30 It was by virtue of this Family Arrangement that the Administrator conveyed the properties the subject matter of this action to Defendant - except No.2 Kissy Road. No.2 Kissy Road does not fall within the Family Arrangement and so should not fall within the ambit of this action.

40 In 1954 the O/A conveyed to Antumani 17 & 17A Martin Street and 8 Magazine Street in pursuance of the family Agreement - See Exhibits 'K' 'L' 'M'. It is clear that infant took benefit under deed of Family Arrangement. He sold each of those properties in 1954 at a time when he was of full age. He must therefore be taken to have adopted and approved the Family Arrangement.

Refers: (i) Pitman v. Ewing, 1911 A.C. 217.
(ii) Re Weston 1900 2 Ch.164.
(iii) Edwards v. Carter 1893 A.C.360.

In the
Supreme Court
of Sierra Leone

No.26.

Addresses to
Court

1st and 2nd
February, 1961
- continued.

Antumani did nothing to repudiate deed after he came of age. In 1954 we find him acting in pursuance of same deed.

Plaintiff in case has no right to ask Court to set aside Conveyances made in pursuance of Family Deed. Antumani has parted with properties for valuable consideration. Parties cannot be placed in same position as before execution of deed.

II. Order of Court: Even without an order, parties are bound. Both parties took benefits and must be bound by obligations. Apart from order of Court Deed stands. 10

In the deed is recited that Approbation was given to terms as recited therein. In Exhibit 'J' - Cause Book there is corroboration that application was made to the Court on an order made. The case file which contains this order unfortunately cannot be traced. This is a file in the custody of the Court. Exhibit 'J' shows that an order was filed on 14th July 1948; it is described as Judge's order approving Deed of Family Arrangement. Exhibit 'J' discloses that there was an Affidavit in opposition to application filed. In spite of the opposition the order was made. The order cannot now be produced to see the terms. But the deed recites the terms to which Antumani and his Trustee were parties. Antumani took benefits under those terms. He must be bound by the terms as set out in the Deed. 20

There has been no evidence of any act of male fides on part of Administrator. There is no evidence of collusion between the Administrator and the Defendant. If Court made order approving terms of Family Arrangement, those terms stood. There has been no appeal. Action cannot now be brought. The Plaintiff has not proved any entitlement to the relief he seeks. 30

No evidence of undue influence on part of Defendant over Antumani. No evidence of misrepresentation to Court on part of Alhadi. Consolidated action should be dismissed with costs. 40

Adjourned to 2.2.61.

2nd February,
1961.

Tuesday 2nd February, 1961. Cor: S.B.Jones, P.J.
All parties and their Counsel present.

Rogers-Wright addresses Court.

1. No.2 Kissy Road: I agree the Conveyance on page

135 of Exhibit 'E' dated 12th July could not have been made in pursuance of the alleged Deed of Family Arrangement. This Conveyance is against a specific devise of a Will. Refers para. 4 of Will Where Testator devised No.2 Kissy Road to Defendant for life with remainder over to Antumani. Conveyance on page 135 in Exhibit 'E' is without authority No.2 does not form part of the residue.

In the
Supreme Court
of Sierra Leone

No.26.

Addresses to
Court

1st and 2nd
February, 1961
- continued.

10 Our S/Os ask for the setting aside of certain Conveyances among which is No.2 on the ground of male fides and on Collusion. It need not be the subject matter of another action just because No.2 does not form part of property conveyed under Deed of Family Arrangement. The question whether or not the Conveyance of 2 Kissy Road can stand has been litigated here we say it can't stand.

20 O/A was Trustee to carry out provisions of Will. He was not Trustee for sale. Refers (i) Gover on Advising on Title 3rd Ed. p.98. (ii) Re Adams and Kensington Vestry 27 Ch.D.1884, 394. (iii) Leigh vs. Soames 36 W.R.884.

There is evidence that at date of Conveyance one of the beneficiaries was an infant and so under a disability and he took no part in the Conveyance.

30 2. Alleged Family Arrangement: Cases cited by Marke in support of proposition that a person can be bound by a deed even though he does not execute it do not bear on the question; e.g. Carey Ellis-ton vs. Reacher was concerned with a building scheme. Judgments of Cozens-Hardy M.R. and L.J. Fowel.

Chambers and Randall proceeded on the question whether covenants can run with the land. The law relating to building schemes and covenants running with lands are special branches of the law.

Refers to Vol.13 page 126-8 of Halsburys Laws of England.

40 Marke cites Vol.15 of Halsburys at page 16 para.22. But Marke did not read on.

Quite clearly the parties in this agreement were not at arm's length. It would have been at the most advisable for Antumani to have been given separate and independent advice.

The alleged Deed of Family Arrangement is not a family arrangement.

In the
Supreme Court
of Sierra Leone

No.26.

Addresses to
Court

1st and 2nd
February, 1961
- continued.

Refers Vol.15 Halsbury, page 2 Para.2 contains definition of a Family Arrangement.

Refers page 6 where three cases are cited which are similar to this and which have been held not to be family arrangement.

(1) Talbot v. Staneforth 20 E.R. p.837.

(2) Playford v. Playford p.764 of Vol.67 E.R.

(3) Willoughby v. Brideoake, 1865, 11 jurists.

Reports N.S.524 (Report cannot be obtained)

Even though deed fulfilled all conditions of execution etc. by its very terms it ought not to stand because it is not a family arrangement and also because its terms are unreasonable - Refers Vol.15 of Halsburys page 13 paras. 15, 16. In present case all Remainders to Antumani are vested in fee simple. This is unreasonable having regard to the cases of Wycherley v. Wycherley 1763 2 Ed-ens Report page 175 or 28 E.R. p.864.

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Hoghton v. Hoghton 1852 15 Bewans Report at page 278 or 51 E.R. page 545.

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Fane vs. Fane 1875 L.R. 20 E.R. page 698 at page 710.

The terms of the present Deed of Family Arrangement are far more unreasonable than those in cases which have been held to be unreasonable.

Refers Wright vs. Vander Plank 44 E.R. at p.340.

Court should look at all the circumstances attending the agreement and exercise its equitable powers. The Agreement shows that there has been overreaching, advantage taken and lack of fair play to Antumani.

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Refers to Exhibit 'B' See Declaration of property.

Under family arrangement Antumani got 17 & 17A Martin Street which was declared at £240, 8 Magazine Street declared at £1,500 and 9 Walpole Street (which under the Will was conveyed to the Trustees in trust for Antumani in fee simple), as well £1,000 to repair his own property 9 Walpole Street and £1,500 by way of advancement.

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As against all this, the Defendant had 23 East Street declared at £4,000, 46, East Street declared at £12,000, 48, East Street declared at £4,200 and 6 Magazine Cut declared at £4,000.

All this means that Defendant takes an advantage of at least £25,000 properties in fee simple as against £1,740 in terms of property in fee simple and £2,500 in terms of cash.

Refers to Vol.15 page 14 of Halsburys.

Even if Antumani had executed Deed, it is not valid because enormous benefit enured to the person possessing undue influence, i.e. Defendant.

Refers again to Vol.15 page 5.

10

Presumption of undue influence must be rebutted if Court should confirm Agreement, e.g. a resettlement of a family estate reserving great benefits for the father though where influence settlement was effected.

The Cause Book and Order recited in Conveyances.

Refers Gover on Advising on Title page 113.

Refers to Dart on Vendors and Purchasers page 359. Phipson on Evidence 9th Ed. page 581-2.

20

There has been no proof that any order of Court was obtained.

The Cause Book discloses two orders approving Family Arrangement.

(i) Dated 21.6.48.

(ii) " 14.7.48.

The Cause Book states that it was In the Matter of the Estate of Momordou Allie deceased. It does not state who the Applicants are.

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Defendant has not done all they should have done to satisfy Court of the probability that the document which they have shown to this Court as a family arrangement is in fact what was approved by this Court on 14.3.48. Any of the Solicitors mentioned in the Cause Book and who are still alive could have been called to satisfy Court as to the probability that what they have put forward as the terms of the family arrangement was what the Court approved. This Court would entertain a doubt as to whether any Court would order that the signature of a person 20 years and 9 months according to Defendant should be dispensed with in such an arrangement which gives enormous benefits to one party.

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Antumani acted on Deed and so according to Marke must be taken to have approbated the terms

In the
Supreme Court
of Sierra Leone

No.26.

Addresses to
Court

1st and 2nd
February, 1961

- continued.

In the
Supreme Court
of Sierra Leone

No.26.

Addresses to
Court

1st and 2nd
February, 1961
- continued.

of the Deed by receiving and selling properties which he got under Conveyances reciting the Order of Court and the Deed of Family Arrangement.

Marke cited 3 authorities which are not germane to facts in this case.

(1) Re Weston 1900 2 Ch.164. This case deals with the right of a Trustee of a settlement to retain as against an assignee of a Bankrupt Settlement. It does not apply to act of a son under family arrangement when he becomes 21.

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(2) Edward v. Carter. This case deals with a Marriage Settlement of an Infant husband. He came of age a month after he had executed it. He received and paid annuities for 4 years. His father died and he continued receiving benefits and paying under the Settlement for about four years after and then he sought to set it aside. He was not allowed to do so.

There is a distinction between that case and this case. In present case Antumani came from Egypt in 1947 He did no work of any kind until he died. He was dependent on his mother. Acts which he did in 1953 when properties were conveyed to him and in 1954 when he sold, could not possibly have the conclusive effect which they would have had if he had been an unfettered agent and not still under influence of mother.

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Refers Kerr on Fraud and Mistake 7th Ed. pages 219-222.

Simpson on Law of Infants 4th Ed. at page 86.

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Walker v. Symonds 3 Swanton Report page 69 or E.R. Vol.36.

Philips v. Mullings 1871, 7 Ch. Appeals 244.

The Earl of Aylesford v. Morris 1872, 8 Ch. A.C. 484.

Where there is proof of parental relationship, and the fact that the Infant and later on the man utterly dependent on his mother all this is evidence of the exercise of undue influence.

Refers again to Wright v. Vander Plank 44 E.R. 340 at 345.

40

Powell v. Powell 1900, 1 Ch. D. page 243.

"A decree does not discharge his burden by showing"

White and Tudor Leading Cases in Equity Vol.1
page 247 etc.

Wright v. Carter 1903 1 Ch. R. at page 27.

Hoblyn v. Hoblyn, 1889 41 Ch. D. 200.

Allcard v Skinner, 1887 36 Ch. 145 and at
182 - locus classicus.

Collusion between Alhadi as Trustee of Estate
and Administrator of Estate and Trustee of Will.

10 There is clear evidence that the relationship
between Alhadi and Defendant was not official. It
became so personal that all the children rebelled
against his visits. Defendant took all her personal
belongings to the private residence of Alhadi.
Her recollection of the execution of Deed should
not be relied on.

All the Conveyances were obtained by Collusion
and male fide including Conveyance of 2 Kissy Road
to Defendant.

20 On several points the evidence of Plaintiff
and his witnesses were not challenged in cross-
examination e.g. Antumani living with his mother
and dependent upon her, wayward and unemployed up
to his death.

Adjourned.

Judgment reserved. Notices to be served.

(Sgd.) S.B. Jones, P.J.

Thursday 23rd February, 1961.

Before the Hon. Mr. Justice S.B. Jones, P.J.

W.S. Marcus-Jones.

30 Appears on behalf of Cyrus Rogers Wright for
Plaintiff.

M.C. Marke and McCormack for Defendant.

Judgment delivered.

In the
Supreme Court
of Sierra Leone

No.26.

Addresses to
Court

1st and 2nd
February, 1961
- continued.

In the
Supreme Court
of Sierra Leone

No. 27.

JUDGMENT

No.27.

Judgment.

23rd February,
1961.

IN THE SUPREME COURT OF SIERRA LEONE

IN THE ESTATE OF MOMORDU ALLIE (Deceased) TESTATE.

BETWEEN: IBRAHIM MOMORDU ALLIE (Administrator
of the Estate of ALHAJI ANTUMANI ALLIE
Deceased) Plaintiff

- and -

HAJAH FATMATTA KATAH Defendant

Appearances

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C. Rogers-Wright for Plaintiff

M.C. Marke for Defendant

JUDGMENT

Two actions intituled C.C.310/60 and C.C.311/60 respectively were on the 22nd November 1960 ordered by this Court to be consolidated, and the hearing of this consolidated action commenced on the 3rd January, 1961 and was concluded on the 2nd February 1961.

The Plaintiff is the Administrator of the Estate of one Alhaji Antumani Allie deceased who died at Freetown on the 4th May 1959 intestate and is also the eldest lawful brother of full age according to Mohammedan Law and Custom of the said Alhaji Antumani Allie deceased (hereinafter referred to as Antumani).

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The Plaintiff in his Writs asks for a declaration that various Conveyances executed between Antumani and the Defendant and one Ahmed Alhadi affecting certain properties devised in the Will of one Mormodu Allie deceased to the Defendant for life and thereafter to the use of Antumani his heirs and assigns in fee simple, be set aside as being void and of no effect, having been obtained from an infant and against his interest and by undue influence.

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The properties enumerated in the writs are as follows: 23, East Street, 2, Fourah Bay Road, 2, Kissy Road, 5 and 5A Kissy Road, 21, Fisher Street, 6, Magazine Cut, 46, East Street, 50, East Street and 48, East Street all situate in Freetown. However, in his Statements of Claim

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the Plaintiff contented himself with asking for the declaration sought, only as regards the following properties namely, 23, 46, 48 and 50 East Street respectively, 6 Magazine Cut and 2 Kissy Road.

In the
Supreme Court
of Sierra Leone

—————
No.27.

10 The facts in this case are as follows: Mormodu Allie was the father of Antumani and the husband according to Mohammedan Law and custom of the Defendant. He died on the 22nd January 1948 leaving a Will dated the 30th August 1946 which was confirmed by a Codicil dated the 19th July 1947. The Defendant was one of his widows and Antumani her only son. Both the Defendant and Antumani, then an infant, survived the deceased. The executors and trustees of the Will included the Defendant and Antumani, all of whom renounced probate, and on the 10th March 1948 Letters of Administration with the Will annexed were granted to Ahmed Alhadi who was then the Official Administrator and the Master and Registrar of the Supreme Court.

Judgment.

23rd February,
1961
- continued.

30 It is said that on the 14th July, 1948 a Judge's order was obtained approving the terms of a Deed of Family Arrangement alleged to have been made between the Defendant, Antumani and Ahmed Alhadi acting as trustee of the trusts created under the Will, wherein the Defendant agreed with Antumani and with the consent of Ahmed Alhadi to vary the trusts of the Will as they affected Antumani so that the Defendant should become seised in fee simple of the following properties, that is to say, 23, 46, 48 and 50 East Street respectively and 6 Magazine Cut, and that the following properties namely 8 Magazine St., 17 and 17A Martin Street, and 9, Walpole Street should become vested in Ahmed Alhadi in trust for Antumani and that the Defendant from her own monies should provide in favour of Antumani a sum not exceeding £1,000 for the purpose of reconditioning, restoring and securing the dwellinghouse at 9, Walpole Street and a further sum of £1,500 to promote his advancement in life.

40 Now the properties 23, East Street and 6, Magazine Cut were by the Will of Mormodu Allie (hereinafter called the "Testator") devised to the Defendant for her life and after her death or re-marriage to Antumani in fee simple. The properties 46 and 50 East Street respectively were devised to the Defendant for life and after her death

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

or re-marriage upon trust for Antumani and any other child or children of the Testator who were then living or who may hereafter be born by the Defendant. It is not disputed that no other child of the Defendant by the Testator was living at the date of the Testator's death, nor was there any other child born to the Testator by the Defendant after his death. The property 48, East Street was devised by the Testator in trust for Antumani his heirs and assigns as tenants in common with no interest whatever created in favour of the Defendant. All these were the properties to be conveyed in fee simple absolute to the Defendant under the terms of the Deed of Family Arrangement. On the other hand under the same Deed, the following properties were vested in Ahmed Alhadi in trust for Antumani namely 8, Magazine Street, 17 and 17A Martin Street and 9, Walpole Street. Under the Will the Testator devised 9, Walpole Street upon trust for Antumani his heirs and assigns as tenants in common. The Defendant had no interest whatever created in her favour in this property. No. 8, Magazine Street was devised to the Defendant for her lifetime and after her death or re-marriage to Antumani in fee simple. Nos.17 and 17A Martin Street were devised to the Defendant absolutely. As to 2, Kissy Road which formed no part of the Family Arrangement, this was devised to the Defendant for life and after her death or remarriage to Antumani in fee simple. Yet on the 12th July 1948, Ahmed Alhadi as Official Administrator by a registered Deed of Conveyance conveyed the entire fee simple to the Defendant contrary to the provision of the Will and without an order of court and described this property as forming part of the residue of the estate of the Testator, which it clearly was not.

The Deed of Family Arrangement was executed on the same day on which it is said the Judge's order was obtained. The parties recited in this Deed were the Defendant, Antumani and Ahmed Alhadi. The parties to the execution were only the Defendant and Ahmed Alhadi. Before the execution, the Defendant handed to Antumani the sum of £1,000 and after the execution a further sum of £1,500. Both amounts were paid, it is said, in pursuance of certain terms in the Deed. Neither of these sums was paid to Ahmed Alhadi as Trustee for the benefit of Antumani but to Antumani himself. On the very next day five Conveyances were executed by

Ahmed Alhadi as Official Administrator conveying the fee simple absolute of the following properties to the Defendant namely 23, 46, 48 and 50 East Street respectively and 6 Magazine Cut. After Antumani came of age, Ahmed Alhadi in 1954 conveyed to him in fee simple the properties situate at 17 and 17A Martin Street and at 8 Magazine Street in pursuance of the terms of the Deed of Family Arrangement. Before his death in 1959, Antumani sold these properties and in each of the Conveyances of Sale was a recital of the terms of the Deed of Family Arrangement.

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Now the Plaintiff in his Statements of Claim alleges that Ahmed Alhadi male fide and in collusion with the Defendant conveyed all the properties the subject-matter of this action unto and to the use of the Defendant in fee simple absolute in possession, and by the exercise of undue influence on the part of the Defendant obtained from Antumani his execution of the Conveyances relating to these properties. As to the Deed of Family Arrangement, the Plaintiff says that this does not exist, but that if it did, and was executed by Antumani, the Judge's order approving of its terms was obtained by collusion between the Defendant and Ahmed Alhadi and by misrepresentation and without due and proper notice to the other parties and next of kin of Antumani and at a time when he was an infant and against his interest. The evidence however clearly shows that Antumani took no part either in the execution of the Deed of Family Arrangement or in that of the Conveyances referred to.

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At the close of the case for the Defence, Counsel for the Plaintiff intimated that he would in his argument abandon those portions of his Statements of Claim which allege that Antumani was a party to the execution of the Deed of Family Arrangement and the Conveyances. Counsel for the Defence submitted that this tantamounted to an application to amend his pleadings, and that it was too late in the day to make such an application, and it should be refused. I hold that I did not think that Counsel for the Plaintiff was making an application to amend his pleadings. In fact he said so himself. I expressed the view that this could be a matter for comment, if at all, on the part of Counsel for the Defence.

Before considering the arguments advanced by Counsel, there is one matter which I think needs

In the
Supreme Court
of Sierra Leone

—————
No.27.

Judgment.

23rd February,
1961

- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

special mention. The witness Young, the Acting Master and Registrar of the Supreme Court deposed, that after making search in his office, he could not find in his custody the file which purported to contain the order of Court approving the terms of the Deed of Family Arrangement. He however produced and tendered in evidence a Cause Book which purported to show that applications were made to the Court for such an order to be made. The relevant portions of this Cause Book -- Exhibit 'J' are as follows - It is in the first place headed :-

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"In the Matter of the Estate of Mormodu Allie deceased In the Matter of the Trusts affecting Alhadi Antumani an Infant".

Then follows these items -

<u>Solicitor</u>	<u>No.</u>	<u>Documents</u>	<u>Date</u>	
E.A.C.John	1.	Affidavit in support	18. 6.48	
"	2.	Summons to approve of Deed of Family Arrangement	18. 6.48	20
"	3.	Judge's order approving of Deed of Family Arrangement	21. 6.48	
C.O.E.Cole	4.	Affidavit in Support	29. 6.48	
"	5.	Summons	29. 6.48	
"	6.	Summons	13. 7.48	
"	7.	Affidavit	14. 7.48	
C.O.E.Cole, Esq.	8.	Judge's Order approving Deed of Family Arrangement	14. 7.48	30

On the opposite page which also dealt with this same matter is recorded one item namely:-

<u>Solicitor</u>	<u>No.</u>	<u>Documents</u>	<u>Date</u>
C.B.Rogers- Wright, Esq.	1.	Affidavit in opposition to application etc.	2. 7.48

I intend later in this Judgment to deal with the question whether there has been legal proof that a Judge's order was made, and if so how it can affect the issues raised in this case.

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It is conceded on both sides that on the respective dates of the execution of the Deed of

Family Arrangement on the one hand, and the Conveyances referred to above on the other hand, Antumani was an infant. However quite a lot of evidence was led as to when he was born. Three birth certificates were produced and tendered on this question. I really do not find these very helpful. The Defendant swore that her son Antumani was born in October 1927 and caused to be produced a birth Certificate - Exhibit 'G' which showed that a male child was born to one Fatmatta (Madingo) at Crook Street on the 16th October 1927. If this Certificate referred to the birth of Antumani, then he was about three months short of reaching his majority on the dates of the execution of the Deed of Family Arrangement and the Conveyances respectively.

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On the other hand two witnesses for the Plaintiff swore otherwise. Soknah Tarawali, the eldest widow of the Testator said that Antumani was born about eight or nine months after she gave birth at Rawdon Street to a daughter by name Kadia. She also caused to be produced a birth certificate - Exhibit 'D' which showed that a female child was born to one Sokonah Tarawally on the 6th December 1929 at Rawdon Street. She said that the Defendant gave birth to Antumani at No.1 Elba Street, the Defendant's mother's house where she visited her after birth. Mucktarr Kallay another witness for the Plaintiff, and brother of the Defendant, swore that the Defendant gave birth to Antumani at No.1 Elba Street and not at Crook Street. He said he was present in the house when Antumani was born. If all this is true then Antumani was born late in 1930 and was almost 18 years of age when the Deed of Family Arrangement and the Conveyances were executed.

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The question as to the date or time of a child's birth is a matter which ought to be peculiarly within the knowledge of the mother. In this case however I regret I cannot accept the Defendant's version. She is illiterate but swore that her son was born in October 1927 the month mentioned in Exhibit 'G' yet she could not remember the year her first husband died, nor the year she got married to the Testator. She swore she got two children for the Testator (which is denied by the Plaintiff and his witnesses), yet she could not remember what year the second child was born. She could not produce either the birth certificate or the death certificate of this child. Apart from

In the
Supreme Court
of Sierra Leone

—————
No.27.

Judgment.

23rd February,
1961

- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

all this the Defendant was a most unsatisfactory witness throughout this case and I find it difficult to place much reliance upon her evidence. I accept the version of the witnesses for the Plaintiff and find that Antumani was born in late 1930 and was about 18 years old when the Deed of Family Arrangement and the Conveyances were executed.

As to the Deed of Family Arrangement, Mr. Marke submitted that this Deed was valid in law and that effect having been given to its terms, the Plaintiff cannot now question its validity. He said that Ahmed Alhadi as Official Administrator was appointed Administrator of the Estate of the Testator and stood in the shoes of the Trustees of the Will and in that capacity executed the Deed on behalf of Antumani who was then an Infant, and also by virtue of a discretionary power contained in paragraph 36 of the Will. This paragraph reads as follows:-

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"I further direct that my Trustees shall have the fullest power generally of determining all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts of this my Will. And I further declare that any determination of my Trustees in relation to any of the matters aforesaid whether made upon a question formerly or actually raised or implied in any of the acts or proceedings in relation to the premises shall bind all parties interested under this my Will and shall not be objected to or questioned upon any ground whatsoever".

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The fact therefore, Mr. Marke urged, that Antumani though recited as a party to the Deed did not in fact execute it, would not invalidate it. In the Deed is recited the following:-

"And whereas the name of Alhadi Antumani has been inserted as a party hereto to the intent that he may be bound by these presents....."

Mr. Rogers-Wright on the other hand argued that even if the Deed fulfilled all the legal conditions of execution, yet by its very terms it ought not to stand because it is in the first place not a Family Arrangement and in the second place its terms are unreasonable.

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As to whether the Deed is a Family Arrangement reference was made to Vol.15 Halsbury's Laws of England 2nd Edition (Hailsham) at page 2

paragraph 2 for the definition of the expression "family arrangement". A family arrangement is there defined as "a transaction between members of the same family which is for the benefit of the family generally, as for example, one which tends to the preservation of the family property, to the peace or security of the family and the avoidance of family disputes and litigation or to the saving of the honour of the family". In the case of Talbot v. Staniforth 70 E.R.837 it was held that a purchase by a tenant for life from a reversioner although the object is the laudable one of preventing the estate being sold out of the Family is not a family arrangement. The Vice-Chancellor in delivering the Judgment of the Court said inter alia at page 847 -

"Persons who deal with expectant heirs must be taken to know the law and must take the consequences of their own act".

In the present case, the Defendant said that the reason why the Deed was made was because Antumani wanted to sell the properties which she got conveyed to her in fee simple, to Syrians. It is difficult to appreciate how Antumani the reversioner, and an infant at that, could have sold these properties without the knowledge and consent of the Defendant. Yet the Defendant confessed that after the properties had been conveyed to her in fee, she herself sold one of them, namely 46 East Street to a Syrian.

In the case of Playford v. Playford 67 E.R.764, a father (tenant for life) and a son (tenant-in-tail) joined in mortgaging the estate to secure payment of the debt of the son and some other property was secured to the son. It was held that such a transaction was not a family arrangement.

I am satisfied on the authorities that although Exhibit 'H' purports to be a Deed of Family Arrangement and was registered as such, it is not in fact one.

As to whether the terms of the Deed were unreasonable, the facts disclose that under this Deed whilst Antumani was to receive and in fact received after his majority real properties situate at 17 and 17A Martin Street valued at £240 according to "The Declaration of Probate Value" to be found in Exhibit 'B' 8 Magazine Street valued at £1,500 and 9 Walpole Street which in fact under the

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

Will was devised to trustees in trust for him in fee simple, as well as the sum of £1,000 to repair his own property at 9 Walpole Street and a further sum of £1,500 towards his advancement in life, the Defendant was to become seised in fee simple and the very next day became so seised of the following properties, namely, 23 East Street valued at £4,000, 46 and 50 East Street declared together with 46A East Street not mentioned in the Deed but perhaps formed part of 46 East Street at £12,000, 48 East Street valued at £4,200 and 6, Magazine Cut valued at £4,000. All this shows that in terms of real properties the Defendant stood to benefit and in fact benefited to the tune of over £20,000 whereas Antumani was only to benefit in the sum of £1,740 exclusive of monies actually paid to him totalling £2,500.

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Mr. Rogers-Wright submitted that the terms of this Deed are far more unreasonable than those which have been held to be such in any reported cases. He said that the unreasonableness of the terms was the result of the undue influence exercised by the Defendant over Antumani who was then an infant. He cited several cases in support of his proposition including the following :-

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Wycherley v. Wycherley 28 E.R.864.

Hoghton v. Hoghton 1852

15 Beavan's Report, 278 or 51 E.R. 545 and

Wright v. Vanderplank 44 E.R. 340

He submitted that the facts show that under the alleged Deed of Family Arrangement, there has been an over-reaching, an advantage taken and a lack of fair play to Antumani and in such a case the Court ought to look at all the circumstances and exercise its equitable powers. He argued that there is always a presumption of undue influence where a parent in an agreement reserves great benefits for himself in resettling a family estate and that the presumption must be rebutted by the parents. He referred once more to Vol.15 of Halsburys Laws of England at page 14 paragraph 46 which reads inter alia "Parental influence is inseparable from most cases of family arrangement. Where it is exercised by a father to obtain some benefit for himself, it is prima facie fatal to the validity of any arrangement so far as that benefit to the father is concerned".

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Mr. Rogers-Wright further argued that it would have been at the most advisable, if Antumani had received separate and independent advice before the Deed was executed - See Vol.15 Halsbury's page 16 paragraphs 22 and 23. In the present case the evidence as to whether Antumani had separate and independent advice and the circumstances under which the Deed was executed came from the Defendant and is most illuminating.

10 At the very beginning of her cross-examination she deposed as follows:-

"At the time Deed was made he (Antumani) was attending school"

In July 1948 he would be twenty years and nine months. I did not employ a Solicitor to draw up the Deed of Family Arrangement.

Alhadi was in charge. He paid the Solicitor.

Later in her evidence she deposed as follows:

20 (1) "The Deed of Family Arrangement - Exhibit 'H' was prepared by Mr.C.O.E.Cole. I instructed him to prepare it. I paid him to do so. Mr. Cole was my Solicitor. I now say that it was Alhadi who got a Solicitor - Mr. Cole - to draw up the Deed of Family Arrangement. Alhadi did everything and paid Cole. I had a lawyer, Mr. Zizer. Mr. Cole read the Deed to me and so did Mr. Zizer. I do not know if Antumani had a lawyer. I now say that he had
30 no lawyer to advise him".

(2) "I understood the Deed of Family Arrangement. Antumani was present when the Deed was read over to me and when it was executed. I do not know why he did not sign. He heard the Deed read as well. It was read in office of Mr. Alhadi. Antumani was a grown up. I had given him £1,000 before the Deed was executed and £1,500 after the execution of the Deed".

40 (3) "Mr. Zizer a Solicitor was my lawyer and my son's lawyer I do not know whether he had any independent advice".

It is to be noted that neither under examination-in-chief nor under re-examination were questions led or answers received eliciting the circumstances under which the alleged Deed of Family

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

Arrangement was executed or whether it was executed with or without separate and independent advice provided for Antumani. It is my view and I think it is clear on the evidence, that Antumani did not receive the benefit of any separate and independent advice before the execution of this Deed. If the Defendant thought it proper to hand over to her son, a school boy, such a large amount of £1,000 before the execution of the Deed and Ahmed Alhadi stood by as Antumani's Trustee and allowed such a transaction to take place without any attempt on his part to get the money vested in himself (as he did in the case of real properties devised by the Defendant to Antumani) for the purpose for which it is said it was intended, it seems to me that such an arrangement almost savours of bribery and provides strong evidence of undue influence. If again the Defendant thought it proper to pay into her school boy's son's hands another even larger sum of £1,500 after the execution of the Deed and Ahmed Alhadi chose to stand by and took the same attitude as he did on the former occasion then again such an arrangement provides strong evidence of undue influence. It amounts to this, does it not, that for certain purposes Antumani appeared to have been treated as if he was of age and over, and for certain other purposes he was treated as the infant he was. For the purpose for which he was treated as an infant he stood to lose very considerably as against certain benefits he derived from the Defendant.

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Mr. Marke submitted that in general where a non-executing party to a Deed takes benefit under it, he is bound by the obligations under the Deed. He cited the cases of Elliston v. Reacher 1908, 2 Ch.655 at p.673 and Chambers v. Randall 1925 1 Ch. 149. Both these cases proceeded on the question as to whether covenants under a building scheme can run with the land. Now, the law relating to building schemes and covenants running with lands are special branches of the law and can be found discussed in Vol.13 of Halsbury's Laws of England and other legal text books. In my opinion the authorities cited, with respect, do not apply to the present case.

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Mr. Marke said that the facts show that when Antumani attained majority, he did nothing to repudiate the Deed and in fact Ahmed Alhadi in 1954 conveyed to him in fee simple the properties 17 and 17A Martin Street and 8 Magazine Street respectively in pursuance of the Deed of Family

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Arrangement, and that Antumani sold each of these properties and in each conveyance of sale was recited the terms of the Deed of Family Arrangement - Exhibit 'H'. Mr. Marke argued that if Antumani when an infant took benefits under the Deed and sold properties which he received by virtue of this same Deed after he became of full age, he must be taken to have adopted and approved of the terms of the Deed of Family Arrangement. He cited the following cases in support, namely:

Pitman v. Ewing 1911 A.C.217.

Re Weston 1900 2 Ch.164 and

Edward v. Carter 1893 A.C.360.

In the case of Pitman v. Ewing it was said where a Deed or Will professes to make a general disposition of property for the benefit of a person named in it, such a person cannot accept a benefit under the instrument without at the same time conforming to all its provisions and renouncing every right inconsistent with them. The facts there were that a Testator gave the life rent of a fund to his daughter and the fee to her children "in such proportions and subject to such restrictions provisions and limitations as she may direct" and failing such directions then equally among them. The daughter by one comprehensive trust disposition and settlement which was not a good exercise of the power of appointment gave the fund massed with her own estate to her children in life rent and to their children in fee. It was held that the children of the daughter claiming the fund in default of appointment must be put to their election between their own rights and the benefits conferred upon them by the Will as they could not accept part and reject part of the same Will. The principle established in this case is well founded but I clearly do not see how it can be applied to the present case where under what purported to be a Deed of Family Arrangement the Trustee of an infant conveyed his entire patrimony and inheritance worth about £20,000 or over to his mother in exchange of properties and money together worth less than £4,500 at a time when as I have found, the infant received no separate and independent advice. It is said that when Antumani became of age, he sold the two real properties devised to him in pursuance of the terms of the alleged Deed of Family Arrangement and therefore must be bound by this Deed. On the evidence Defendant herself sold

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

46 East Street one of the properties devised to her in fee also in pursuance of the same deed. It is not suggested that these transactions have affected the rights of third parties. The Plaintiff's case is that the position between the parties is still unequal despite sales have been made by both of them, in that the Defendant still retains real properties under the alleged Deed of Family Arrangement far exceeding in value what Antumani received from her and disposed of at a time, when he was still on the evidence, being cared for by the Defendant. In my view therefore, the case cited is not germane to the present one.

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The case of Re Weston dealt with the right of a trustee of a settlement to retain trust property as against an assignee of a Bankrupt Settler. The case of Edward v. Carter dealt with a marriage settlement of an infant husband made by his father. The infant came of age a month after he had executed it. He received annuities for a period of four years before his father's death. Thereafter he sought to set aside the settlement. It was held that the settlement as regards the husband was voidable, not void and that if he chose to repudiate it, he should have done so within a reasonable time after he came of age. He was to be treated as knowing the contents of the deed whether he knew them or not, and that his repudiation not being made within a reasonable time, he was bound by the settlement. Both these cases in my view do not apply here.

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In the present case, it is not disputed that when the alleged Deed of Family Arrangement was executed, Antumani was a school boy and lived with his mother. He continued to live with her even after he left school. It is not disputed that Antumani was unemployed until his death and that Defendant kept him throughout. When in September 1954 Ahmed Alhadi conveyed to him 17 and 17A Martin Street and 8 Magazine Street, and when he sold these properties, he was passed his majority. Mr. Rogers-Wright submitted that even though Antumani had passed his majority, as he was still under the influence of the Defendant, it could not possibly be said that his act of accepting the conveyances, was an act of an unfettered and free person. He cited a number of cases and textual authorities to support this proposition. I need only refer to two of these textual authorities namely -

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- (1) Kerr on Fraud and Mistake
7th Edition at pages 219-22. At pages 219-220
it is stated as follows:-

10 "The influence which a parent has naturally
over a child makes it the duty of the
Court to watch over and protect the inter-
est of the child A child is presumed
to be under parental influence as long as
the dominion of the parent lasts. Whilst
that dominion lasts it lies on the parent
upholding the transaction or maintaining
the gift to disprove the exercise of par-
ental influence by showing that the child
was really a free agent and had competent
independent advice or had at least compe-
tent means of forming an independent judg-
ment and fully understood what he was do-
ing and was desirous of doing it.
20 The principle applies for at least a year
after the coming of age of the child, and
will extend beyond the year, if the domin-
ion lasts, that is until the relationship
has entirely ceased, not only in name but
in fact and the parties are at arms length,
for the principle continues to apply, for
so long after the relationship has ceased
as the reasons on which it is founded con-
tinue to operate".

- 30 (2) Simpson on the Law of Infants 4th Edition at
page 86 -

"The protection afforded by law to infants
in disabling them from executing binding
instruments, is extended by Courts of
Equity in many cases after they have at-
tained twenty-one until they have all the
information which might have been acquired
in adult life".

40 "These considerations apply with greater
force where the Deed is not intended to be
solely for the infant's benefit but confers
advantages on other"

I must say that if what purported to have been a
Deed of Family Arrangement - Exhibit 'H', was in
fact such a deed, the terms of such an instrument
would not have come within the ordinary rules of
the Court with respect to parental influence. See
Kerr on Fraud and Mistake at pages 220, 221. I
have however held that Exhibit 'H' is not a Deed
of Family Arrangement.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

Mr. Marke submitted that there has been no evidence of undue influence exercised by the Defendant over Antumani. With respect, I think the law is that parental influence is to be presumed as long as parental authority or dominion last and whilst they last it lies on the parent. To prove that such parental influence was not exercised and he must do so by showing that the child had independent advice or in some other way. See Simpsons Law of Infants at page 131. The onus therefore of proving undue influence is not on the Plaintiff. It is for the Defendant to disprove it. I am satisfied that all the facts combine in showing that both at the time when the alleged Deed of Family Arrangement was executed and at the time also when Antumani though of full age took benefits under the deed he was under the influence and dominion of the Defendant. The Defendant on her part has failed to prove that this was not so. It follows, in my opinion, that the alleged Deed of Family Arrangement must be held invalid and of no effect, and I so hold.

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I now come to the matter relating to an order of this Court which it is said approved the terms of the Deed of Family Arrangement - Exhibit 'H'. It is unfortunate, and perhaps to be deprecated, that a file of our Supreme Court relating to a matter which appeared to have come before it could not be traced. However, it is I think the law that orders and proceedings of the Supreme Court are proved by the originals or office copies. Neither has been forthcoming in this case due to no fault of the parties concerned. It was urged, and strongly so, that the Cause Book - Exhibit 'J' to which I have made reference earlier, showed that an order dated the 14th July, 1948 was in fact made by a Judge approving the terms of Deed of Family Arrangement and that those terms are to be found embodied in the Deed - Exhibit 'H'.

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Now, the Cause Book shows that a summons was issued in June 1948 for the approval of a Deed of Family Arrangement, "In the Matter of the Estate of Mormodu Allie deceased and in the Matter of the Trusts affecting Alhadi Antumani an infant". Three Solicitors, all alive, appeared to have taken part in this case, namely Messrs. E.A.C. John, C.O.E. Cole and C.B. Rogers-Wright. The Cause Book shows that Mr. C.B. Rogers-Wright on the 2nd July filed an Affidavit "in opposition to the application etc." Prior to this, it is recorded that on the 21st

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June, 1948 a Judge's order approving a Deed of Family Arrangement was obtained. Again it is also recorded that on the 14th July, 1948 there was another Judge's order approving of a Deed of Family Arrangement. For the purposes of the present case the Defendant relies on the second order. None of the Solicitors was called to produce an office copy of this order, that is of course if they have any in their possession, nor to give such other evidence as may have assisted this Court. In these circumstances it is difficult for the Court to come to the conclusion that the terms recited in the alleged Deed of Family Arrangement were in fact those approved of in the Judge's order on which the Defendant relies. The question whether such an order was obtained by collusion between Ahmed Alhadi and the Defendant and by misrepresentation and without due and proper notice to other beneficiaries under the Will of the testator and the next of kin of Antumani does not therefore arise.

There is one last matter for my consideration, namely whether, as the Plaintiff alleges, the several conveyances executed by Ahmed Alhadi in favour of the Defendant and which are sought to be set aside were so executed by him male fide and in collusion with the Defendant. It is not denied that Ahmed Alhadi whilst administering the testator's estate, paid many visits to the Defendant in her home. I find that these visits were wholly unconnected with the administration of the estate, I accept the evidence that Ahmed Alhadi and the Defendant lived as man and wife and that the former slept on many occasions in the house of the latter -- the house where the Testator before his death lived and slept with the Defendant. The children of the Testator including the Plaintiff and Antumani himself took objection to all this and on one occasion forcibly ejected Ahmed Alhadi from the Testator's house. The Defendant after this incident moved all her personal belongings to the private residence of Ahmed Alhadi, according to her for safe keeping. The position was described by the Plaintiff as follows :-

"The Will did not bequeath my father's wife to him (Ahmed Alhadi). I had no personal dislike for Alhadi. He allowed his official duties to be influenced by his relationship with Defendant".

I find that I cannot in face of the evidence

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

-- continued.

In the
Supreme Court
of Sierra Leone

No.27.

Judgment.

23rd February,
1961

- continued.

help holding the view that Ahmed Alhadi in his dealings with the trusts affecting Antumani acted male fide and in collusion with the Defendant. If any further proof of this is required it can be found in the matter of the Conveyance by him of 2, Kissy Road to the Defendant in fee simple. The facts are that before the Testator died he had contracted to purchase this property at the sum of £3,500 and had paid to the Vendor £2,000. After his death, Ahmed Alhadi in the due administration of his estate paid the balance purchase price 'out of monies forming part of the estate of the Testator'. In his Will, at paragraph 4, the Testator devised this property to the Defendant for life and after her death or re-marriage in trust for Antumani in fee. He also devised and bequeathed all the rest and residue of his estate to the Defendant absolutely. However, in the course of administering the testator's estate, Ahmed Alhadi on the 12th July, 1948 without as much as an order of Court and even before the alleged Deed of Family Arrangement was executed conveyed this property to the Defendant in fee in flagrant breach of his trust, and contrary to the expressed provision of the Testator's Will, either falsely or wrongly (I prefer to think falsely) described the said property as forming part of the residuary estate of the Testator. Mr. Marke submitted that the Conveyance of 2, Kissy Road to the Defendant is a matter which this Court has no right to adjudicate upon because this property did not come within the terms of the Deed of Family Arrangement - Exhibit 'H' with respect, I think he is wrong, because the Plaintiff in one of his Statements of Claim has asked the Court to set aside this Conveyance among others as having been obtained by the male fides of Ahmed Alhadi and in collusion with the Defendant. 10 20 30

On the whole of the evidence, as well as on the authorities, I have come to the conclusion that the Plaintiff must succeed and I hereby order that the conveyances made and executed by Ahmed Alhadi to the Defendant in fee simple relating to the following properties, namely 23, 46, 48 and 50 East Street respectively, 6 Magazine Cut and 2, Kissy Road, be set aside and that the several devises made by the Testator under his Will relating to them be restored. I further order that the Defendant pay the taxed costs of these proceedings. 40

(Sgd.) S.B. Jones,
PUISNE JUDGE
23rd February, 1961. 50

No. 28.

ORDER.

In the
Supreme Court
of Sierra Leone

C.C.311/60

1960.

A. No. 24.

No.28.

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER OF THE ESTATE OF MOMORDU ALLIE
(DECEASED) TESTATE.

Order.

1st March, 1961.

BETWEEN:- IBRAHIM MOMORDU ALLIE (ADMINISTRATOR
OF THE ESTATE OF AIHAJI AHUMANI ALLIE
(Deceased) Plaintiff

10

-- and --

HAJAH FATMATTA KATAH Defendant

Thursday the 23rd day of February, 1961.

Before His Lordship Mr. Justice S.B. Jones.

THIS MATTER coming up for hearing before His Lordship Mr. Justice S.B. Jones the 31, 24th, 25th, 27th, 30th and 31st January, 1961, the 1st and 2nd February, 1961 and this day in the presence of Cyrus Rogers-Wright, Esq., of Counsel on behalf of the Plaintiff and M.C. Marke, Esq., and E.J. McCormack, Esq., of Counsel on behalf of the Defendant;

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UPON READING the Writ of Summons and the Pleadings filed herein; and

UPON HEARING the Plaintiff and Defendant with their witnesses in their Oral Evidence and the Exhibits shown;

IT IS ORDERED AND ADJUDGED as follows :-

1. The Conveyance made and executed between Ahmed Alhadi and the Defendant and registered in the Office of the Registrar General as follows :-

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1. Page 129 of Volume 158 at No.46, East Street, Freetown.
2. Page 130 of Volume 158 at No. 6, Magazine Cut, Freetown.
3. Page 131 of Volume 158 at No.48, East Street, Freetown.
4. Page 132 of Volume 158 at No.23, East Street, Freetown.
5. Page 133 of Volume 158 at No.50, East Street, Freetown.

40

In the
Supreme Court
of Sierra Leone

No.28.

Order.

1st March, 1961
- continued.

6. Page 135 of Volume 158 at No. 2, Kissy Road,
Freetown.

be null and void and are hereby set aside.

2. That the devises in the Will of Momordu Allie
(Deceased) dated the 20th August, 1946 confirmed
by Codicil dated the 19th July, 1947 be restored.

3. The Defendant to pay the taxed costs of the
action.

DATED the 1st day of March, 1961.

BY THE COURT.

(Sgd.) W.S. Young,

AG. MASTER AND REGISTRAR.

10

In the
Sierra Leone
and Gambia
Court of Appeal

No. 29.

NOTICE OF APPEAL

IN THE SIERRA LEONE AND GAMBIA COURT OF APPEAL

No.29.

Notice of
Appeal.

4th March,
1961.

BETWEEN:- IBRAHIM MOMORDU ALLIE as Administrator
of the Estate of Alhaji Antumani Allie
Plaintiff - (Respondent)

- and -

HAJAH FATMATT A KATAH
Defendant - (Appellant)

20

TAKE NOTICE that the Defendant being dissatis-
fied with the decision of the Supreme Court con-
tained in the Judgment of the said Court dated the
23rd day of February, 1961 doth hereby appeal to
the Sierra Leone and Gambia Court of Appeal upon
the grounds set out in paragraph 3 and will at the
hearing of the appeal seek the relief set out in
paragraph 4.

AND the Appellant further states that the
names and addresses of the persons directly affec-
ted by the appeal are those set out in paragraph 5.

30

2. Part of decision of the lower Court complained
of: Whole decision.

3. GROUND OF APPEAL:-

(1) In the circumstances of the case, the
Plaintiff was not competent to bring the

consolidated actions to have any or all of the Deeds affected by the Judgment set aside.

In the Sierra Leone and Gambia Court of Appeal.

- 10 (2) The Court below was not competent to set aside the Deed of Family Arrangement dated the 14th July, 1948 or the Deeds of Conveyance made in pursuance of the said Deed, relating to the properties situate at 23, East Street, 46, East Street, 48, East Street, 50, East Street, 6, Magazine Cut and 2, Kissy Road all being in Free-town executed by Ahmed Alhadi then Official Administrator as Administrator of the Estate of Momordu Allie deceased with his Will and confirming Codicil annexed in favour of the Defendant.
- 20 (3) The learned trial Judge was wrong in law in holding that the said Deed of Family Arrangement was not a valid Deed of Family Arrangement.
- (4) The learned trial Judge was wrong in law in holding that the said Deeds of Conveyance made in pursuance of the terms of the Deed of Family Arrangement related to 23, East Street, 46, East Street, 48, East Street and 50, East Street could be set aside.
- 30 (5) The learned trial Judge erred in law in not holding that the said Deed of Family Arrangement could not be set aside as the parties thereto could not be restored to their respective original positions.
- (6) The finding of the learned trial Judge that inadequacy of consideration invalidated the Deed of Family Arrangement could not be supported in law in the circumstances of the case.
- 40 (7) Delay in bringing the action to invalidate the Deeds sought to be set aside in the consolidated actions is a bar to the granting of the relief sought in view of proved facts.
- (8) There is no justification in law in view of the evidence tendered and received that Ahmed Alhadi now deceased formerly Official Administrator of Estates acted as Trustee of the Trusts of the Will of

No.29.

Notice of Appeal.

4th March, 1961

- continued.

In the Sierra Leone and Gambia Court of Appeal.

No.29.

Notice of Appeal.

4th March, 1961

- continued.

Momordu Allie deceased affecting Alhaji Antumani Allie male fide in relation to any of the Deeds in question in the consolidated actions or that the Appellant exercised undue influence over her son the said Alhaji Antumani Allie in relation to the execution of the said Deeds.

- (9) Alhaji Antumani Allie having in his lifetime after he became of full age received benefits under the Deed of Family Arrangement could not lawfully be heard to say that the Deed was invalid in law or that the Deeds of Conveyance made by virtue of the Deed of Family Arrangement and the Deed of Family Arrangement itself should be set aside. 10
- (10) The learned trial Judge misdirected himself in stating that the Deeds of Conveyance relating to 17 and 17A Martin Street and 8, Magazine Street in Freetown were in 1954 conveyed to Alhaji Antumani Allie in pursuance of the terms of the Deed of Family Arrangement by Ahmed Alhadi. 20
- (11) The Judgment is against the weight of the evidence tendered and received in the course of the trial of the consolidated actions.

4. RELIEF SOUGHT FROM THE COURT OF APPEAL:

- (1) That this Court should pronounce for the validity of the Deed of Family Arrangement. 30
- (2) That the Order of the learned Trial Judge made on the 23rd February, 1961 to the effect that the Deeds of Conveyance executed by Ahmed Alhadi in favour of the Appellant relating to the properties 23, 46, 48 and 50 East Street and 6 Magazine Cut and 2 Kissy Road all in Freetown be set aside and the devises relating to them made by Momordu Allie deceased under his Will be restored, be quashed. 40

5. PERSONS DIRECTLY AFFECTED BY THE APPEAL

The Plaintiff, Ibrahim Momordu Allie
(Administrator of the Estate of Alhaji Antumani Allie deceased)

DATED this 4th day of March, 1961.

(Sgd.) Haja Fatmatta Kata
APPELLANT.

No. 30.

JUDGES NOTES

IN THE SIERRA LEONE AND THE GAMBIA COURT OF APPEAL
WEDNESDAY, 22nd MARCH, 1961.

8/61 - Hajah Fatmatta Katak - (Appellant)

vs.

Ib. Mom. as Administrator
etc. - (Respondent)

In the Sierra
Leone and
Gambia Court
of Appeal.

No.30.

Judges Notes.

M.C. Marke and McCormack for Appellant

10 Rogers Wright for Respondents.

Marke: Claim to have deed set.

Were made in pursuance of Deed of Family Arrangement also 2 Kissy Road which is outside the deed of Family Arrangement. P.57 Evidence.

Ground of Appeal 2. Asks to delete "and 2 Kissy Road".

Ground 3:

Appellant's case is Deed of Family Arrangement was approved by order of Court on 4.7.48.

20 Exhibit 'H' Recites approval by Judge (p.37 Exhibits) M. & R. evidence case file could not be traced. Cause Book produced - Exhibit 'J'. (But see 263 of Exhibit 'J').

Reads judgment p.41 (19-31)

Cause Book shows application made to Court for approval.

Deed (H) recites that it was made in pursuance of an order of Court.

30 By the Deed Appellant agreed to come to relief of her infant son, and to advance money to salvage a house and for his advancement.

Trustee could not approve: Matter taken to Court for approval.

When Deed of Family Arrangement approved by Court it stands on a different footing, because it has the approval of the Court.

If not so approved, infant could have repudiated, but he did not. No evidence of any attempt. (He died in 1959).

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

J raised point that Cause Book did not prove terms of deed of family arrangement.

Application by C.O.E. Cole. Infant came of age before 1954. Exhibit 'K' passed to him the property which became his under the Deed of Family Arrangement - Exhibit 'L'.

The minor is bound by the recitals of Deed of Family Arrangement which are set out, in deed conveying to him your share. He is estopped and so his adminor is.

10

Pearl Assurance Johnson. L.R.1909 2 K.B.288.

Ref its not being shown that infant had not received independent advice.

Adjourned.

In the Sierra Leone and the Gambia Court of Appeal Tuesday, 28th March, 1961.

Cor: Mr.Justice C.G. Ames - President
Mr.Justice S.A.Benka-Coker - C.J.Sa.Leone
Mr.Justice R.B.Marke - P.J.Sa.Leone

Civil 8/61: (Deed of Family Arrangement appeal)

20

Parties as before

Application by Respondent to strike out grounds 3, 4,5 and 6. Rogers Wright:- Grounds are contra Rule 12(2). (Reads it). Reads grounds 3,4 & 5.

Fielding. 26 C.A.R.211. (Du Parc L.J.)
Application refused.

Marke to continue argument:-

Ground 2. (Reads it) Deed is Exhibit 'H' (reads)

Registration of Deeds Ord. Cap.200 Sec.4 (Reads it)

General Registration Ord.Cap.100 Sec.9(1)

30

Terms of law as to registration having been complied, and as registers can be searched, registration was notice to all the world.

Sup. Court gave approbation.

Appellant and O.A.executed it. Infant did not.

In re Leavers (1901 2 Ch.D.534) Romer L.J.at p.545. last para.

If Court approves, order of approbation made by Court is binding on all concerned. (P.37 l.10)
Order was recited.

Appellant not able to get Court Officials to produce the record of approbation. In case of re Momordu Ali deed, re Trusts affecting the infant to vary the trusts.

In the Sierra Leone and Gambia Court of Appeal.

Master and Registrar produced the Cause Book. P.41 (of record). Refers to the items.

No.30.

Cannot be 2 s/s together in same matter and so presumption is that 5 was withdrawn and 6 took its place.

Judges Notes
- continued.

10 Benka-Coker:- Why did you not call the Solicitors M:- They had given up practice long before, and so would be relying on their memory.

C.O.E. Cole made the deed.

Item 8.

Ames:- What is difference between Item 3 and Item 8.

Benka-Coker:- It might have been other property.
M:- It may have been.

20 After execution of Exhibit 'H' other deeds were executed by the O.A. in favour of Appellant: certain properties were to pass to her in fee and O.A. was to stand seised of certain other properties which had belonged to the Appellant for the benefit of the infant.

Approval became judgment in rem, the same Court could not make an order setting aside the deed. Court below exceeded its power in ordering it to be set aside.

Ground 1:

30 Respondent was not able to prove his capacity to bring the suit.

Record p.11. Exhibit 'A' produced by Master and Registrar at p.4 l.34.

Before action started his Letters of Administration had been impounded by the Court.

(Note: L/A not found in Exhibit 'A').

Administrator had no more right to sue than the infant.

Ground 4: (Reads it)

40 The deeds as to these properties which are exhibits recite that O.A. granted in pursuance of the approved Deed of Family Arrangement.

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

Exhibit 'H' p.37 l.18 - and over to p.38 l.3.

When once it is found that Deed of Family Arrangement approved by Court another Judge in Supreme Court could not set it aside nor the deeds made in pursuance of it.

Ground 5:

Record p.49 l.13. Applt had sold 46 East Street. P.25 l.14 et seq. Exhibit 'K', 'L' & 'M' produced.

'K' is conveyance by infant of Martin St. property

'M' " " Magazine St. " 10

These show that third parties had taken interests in consequence of the Deed of Family Arrangement.

Judgment p.49 l.16. "It is not suggested etc. etc.--

Evidence shows there are purchasers for valuable consideration, who are third parties, and if deed of Family Arrangement set aside, the properties could not be restored to their former position.

Urquhart v. Mcpherson (1878 L.R. 3 A.C. 831)
L.S.W.Rly.Co. v. Boyd & Forest (1915 A.C. 526)

Ground 8: (As to O.A. acting with mala fides) 20

Notes of Evidence p.53 l.16-19-21 and over to p.54 l.10 P.31 of Exhibits.

See also p.9. Clause 37 of Momordu Allie's Will i.e. balance of purchase price could not be found elsewhere. Estate not liable -- residuary estate not liable to pay the unpaid purchase money. The burden fell on the property itself.

Barnett v. Burnside 1925 C.D.13.

Infant then about 9 years, and no evidence that he had money to pay off the balance due. 30

Appellant was called upon to advance £1,000 to save a house threatened with demolition and another sum to carry on trade.

Applt also beneficiary: she was given an estate for her life. She bought the property otherwise her life interest would have been lost.

Reads Exhibit 'K'.

Motive of Deed of Family Arrangement was that P.W.D. had served notice to have 9, Walpole Street repaired: and that required £1,000. The £1,500 was given to the infant to trade. Necessary for his advancement in life. 40

(As to Appellant's exercising undue influence on the infant) Reads p.45 (Judgment)

Judge's figures were value of property in its entirety. Infant was remainderman; and Appellant had a life interest in all of these properties.

Infant was parting with his interest in remainder. Appellant was getting fee simple instead of her life interest.

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

10 Approval by Court of Deed of Family Arrangement negatives undue influence.

(Willoughby v. Bridesake 12 L.T.173
(Ditto in Court of Appeal 13 L.T.141.)

This case overrules Playford v. Playford referred to by J. at p.44 l.30.

(Sgd.) C.G. Ames.

In the Sierra Leone and the Gambia Court of Appeal
Wednesday, 29th March, 1961.

20 Cor: Mr. Justice C.G. Ames - President
Mr. Justice S.A. Benka-Coker, C.J. Sa. Leone
Mr. Justice R.B. Marke, - P.J. Sa. Leone.

Civil 8/61 - (Deed of Family Arrangement)

M.C. Marke continuing:-

Re Ground 8 (continued)

p.12 l.35 - p.12 l.9.

Sometime in 1950 infant was not living with Appellant. Also l.12-14. Infant lived with this other person from 1950 until he died in 1959.

(Evidence of Plaintiff). P.51 l.18, Judgment.

30 Deed of Family Arrangement was made on motion of infant because of notice served on him by P.W.D. re repair of 9 D. St. Arrangement agreed to and placed before Court. This rebuts any presumption of undue influence.

P.13 Plaintiff's evidence l.16-l.34. Conduct of O.A. and the Appellant not evidence of undue influence. Nor of mala fides, collusion or breach of trust so as to avoid the deed. Even if P.13 l.16-34 took place, which is denied.

40 Application to Court and hearing afforded by the hearing by the Court and sanction given by the Court constitute a complete answer to undue influence.

In the Sierra Leone and Gambia Court of Appeal.

No.30.
Judges Notes
- continued.

Savory v. King 10 E.R. 1046. Solicitor purchasing reversion from his client.

Ground 7: (re delay in bringing action)
Deeds in 1948.

From 1950 to death in 1959 he had left his mother's home. In 1954 O.A. conveyed properties to the infant. In 1956 infant sells them. Died in May 1959 having done nothing to avoid the deed.

Third parties have taken interests in East Street. Can his administrator say now in 1960 that the Deed should be set aside? 10

Edwards v. Parker 1893 A.C.360 (refers to making contract without approval of the Court.)
Exhibit 'G' read.

Exhibit 'A' which has interrogatories in another act, by Appellant against Respondent to set aside grant of Letters of Administration.

Of age in 1954 when property conveyed to him.

Ground 9: (Reads it)

Pitman v. Ewing 1911 A.C.217. (No person can accept and reject the same instrument) 20

re Weston 1900 Ch. 164

Ground 10:

These deeds were not executed by O.A. but by Percy Davies, who had become O.A.

P.48 1.5 1.8 mentions A.A. and is wrong

Ground 11: P.54 1.11

Carpenter v. Buller - 8 M. & W. 209.

Rogers-Wright:-

30

Introductory:

P.51 1.18 finding of fact that infant under influence. P.53 1.16 finding of fact that O.A. acted mala fide. 1947 A.C.484 (at p.487) Watt (or Thomas) v. Thomas 1959 A.C.789 Akerhielm v. Demare 14 W.A.C.A.242 Kodjoe II v. Bonsie and another 14 W.A.C.A.400 Noujaim v. Ali 14 W.A.C.A.480 Keh v. Keh.

re Ground 1:

re competence of administrator to file suit 40
(O.21 r.5 White Book O.XVIII r.5 Sup.Ct.Rules
(Defence P.10. admitted.

Inkpen on Executors. re Ivory 10 C.D.372.
re Ground 2: Cap.50, Sections 11, 12 & 15.

In the Sierra Leone and Gambia Court of Appeal.

Court had jurisdiction to set aside "for good cause" notwithstanding the recital of approval of arrangement by Court.

No.30.

Concedes that if Supreme Court is satisfied that there is order Supreme Court approving a deed, Supreme Court cannot set it aside.

Judges Notes - continued.

10 P.52 1.20 Not able to find as a fact that there was approval of Court. This means it was not proved to have been approved by the Court.

(In reply to Ames) Onus on appellant to satisfy J that there was approval given by Court to the arrangement.

Recitals in a deed not sufficient to oust jurisdiction of Supreme Court to set it aside.

Ground 3: As to what is a family arrangement P.2 Vol.15 Halsbury (Hailsham Ed.) and P.5.

Savory v. King 10 E.R. 1025 (at 1058)

20 Talbot v. Stanforth 70 E.R. 837.

ceases to be family arrangement, if undue influence or etc.

Playford v. Playford 67 E.R.764.

(Willoughby v. Brideoake 12 L.T.R.173
on appeal 13 L.T.141.

Right to rescind continues for a long time.

Hoghton v. Hoghton 51 E.R.545 at p.559

30 Within a year of his arrival in Freetown from Egypt the boy was sent to School here. About 18 years of age, more according to the Appellant.

Deed set aside because -

(P.47)(1) Antumani not aware of terms of the arrangement. No evidence by Appellant that he was aware.

Also (2) as between the parties terms were unconscionable and unreasonable

and (3) because of enormous advantages were obtained by Appellant (P.45).

Adjourned.

In the Sierra Leone and Gambia Court of Appeal.

No.30.
Judges Notes
- continued.

6th April, 1961.

8/61: Hajah Fatmatta v.

Resumed. Parties as before

Rogers Wright continues:-

Ground 3 continuing:- (and also 5 & 7)

Even assuming that infant signed the Deed of Family Arrangement the enormity of the benefit which accrued to the Appellant, is such that it should be set aside.

Inche Noriah v. Bin Omar. 1929 A.C.127. 10

Lancashire Loan Ltd. v. Black 1933 reprint All E.R.210 1934 1 K.B. at 380. Very strongly rely on him. Lawrence L.J. at 415. Green L.J. at 419 and 421. Bullock v. Lloyds Bank Ltd. & Another 1954 3 All E.R.726. In this case at p.47 l.15 & p.47 l.1.

Deed in fact was not executed by infant, but by O.A. who as judge found the fact to be, acted mala fide and in collusion with the Appellant.

re restitutio in integrum only applied in contract and Vendor and Purchaser. For limit of its application see Spence v. Crawford 1939 3 All E.R.271, at 280 judgment of Lord Thankerton. 20

Ref infant having accepted conveyances by O.A. It must be shown, if it is to be confirmation

1. that he knew the Family Arrangement could be set aside
2. that he knew it was a confirmation
3. that he desired to confirm it

Kerr on Fraud and Mistake - 7th Ed. 591 30

Hatt v. Hatt 32 E.R.615

Hylton v. Hylton 28 E.R.349

Adjourned till tomorrow

(Sgd.) C.G. Ames

In the Sierra Leone and the Gambia Court of Appeal (Friday 7th April, 1961)

Coram: Hon. Justice C.G.Ames - President

Hon. Justice S.A.Benka-Coker, C.J. S.Leone

Hon. Justice R.B.Marke, P.J. S.Leone

8/61 continued: 40

Rogers-Wright continues:-

Ref. Ground 1: wishes to cite

Berry v. Gibbons 8 Ch. App. 747

Administrator can continue to represent estate,

unless an injunction is made against him, or receiver appointed. Ref. Conveyance of 2 Kissy Rd. which Appellant says was not in pursuance of the Deed of Family Arrangement and was the day before.

Locke's Act only applies where danger of property not being acquired for lack of funds.

F.31 l.21 Recital. Difficult to see how 2 Kissy Road could form part of the residuary estate. There was a specific devise. P.2 para.4 of Will.

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

10 This point not raised in Court below.

There being no authority for conveyance of 2 Kissy St. (p.31) it should be set aside. The J. found in it evidence of collusion between O.A. and Appellant.

Snell's Equity 22nd Ed. 266.

Here testator in his Will expressed a contrary Will.

Ground 8: (as to O.A. acting Mala fides)

Judgment p.52 l.30 Watt v. Thomas cp. cit.

20 As to what Appeal Court will do as to finding of fact by Judge where he sits without jury.

Evidence was P.13 l.16) also Hajah F's own
P.15 l.19) evidence P.19-21
P.43 l.7 (in judgment)

Ample to support J's finding that there was Mala fides.

Ground 6: (ref inadequacy of consideration).

P.44 l.21 (in judgment) P.45 l.1.

Ground 9: Authorities about it.

Athenlum Light Son v. Pooleg 44 All E.R.1281

30 Ground 10: Nothing turns on this. Judge did not say so. P.48 l.5 - in the judgment.

(Recital is in this deed that the Deed of Family Arrangement was approved by Court).

He would have been acted on the registration of the deed. This did not affect Judge's judgment.

(K.I.V. In this judgment he thought Ahmed Alhaji had been the grantor).

Anyhow Judge was not then considering mala fides but purely whether or not it could be treated as confirmation.

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

Ground 11: Already covered when arguing other grounds of appeal.

Marke in reply:- Ref.P.53 1.16-19.

But see p.52 1.20. This and other passages are not consistent.

P.51 1.18 ref. submission that these are binding. (of Rogers Wright appeals here are by way rehearing and Court can examine the evidence.

Ben Max and Austin Motor Co. Ltd. 1955 1 All E.R. 326 and 1955 L.R. A.C.37

10

Akerhielm v. Demare

Where Court upset findings of fact by trial judge.

ref the competence of the Respondent to file the suit.

Pleadings p.10 Defence in suit 310/60. Para.5.

In 311/60 no defence was delivered.

If no defence is delivered, it puts in issue all the averments in the Statement of Claim.

20

Rules of Court 0.23 r.13.

So effect of no defence was to deny that Plaintiff was the administrator of the estate of the infant.

310/60 and 311/60 were consolidated.

L/A have been lodged in Court and not in his possession and not available to him to produce and prove his title.

Tristram & Coote 20th Ed. p.474.

Citation to bring in grant. No copy to issue without leave. So no evidence of Plaintiff's title to bring the action.

30

Roscoe Evidence in Civil actions 20th Ed. p. 1157.

ref. argument that Court not competent to set aside the deed.

R.W. cited Sec.11, 12 and 13 of the Courts Ordinance.

Court below failed to draw proper inferences of fact in dealing with question as to whether deed was approved of.

40

P.52 (judgment) 1.4-23.

Does not find no application made: or that deed not approved: but that there is no proof of the terms of the deed.

Inferences should have been that the terms were included in the deed which was made.

So Supreme Court could not have set aside the deed.

Courts file containing the draft could not be found and so secondary evidence produced.

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

10 Question of whether it is a Deed of Family Arrangement does not arise once the Court has approved the deed.

Ground 5: restituo in integrum only applies in contract.

Ref.2 Kissy Rd:

It is admitted there was a widow lien, for unpaid purchase money at death of testator; that it was devised to Haja F for life and remainder to infant.

20 So recourse was had to moneys of the estate.

Will of 30th August 1946 was in File which was Exhibit 'A' which refers to Mortgages.

1925 Ch. D.12 re Bernstein

which decides Vendors lien is not a mortgage and so not contrary intention expressed in the Will, and so Locke King's Act applies.

Therefore the property itself had to bear the liability to pay - i.e. the devisees. They were Haja F. for life and Antumani.

30 H.F. was residuary devisee and legatee: the lien was paid off from residue money, and so O.A. conveyed the property to her.

ref deed being tainted with undue influence.

R.W. cited Lancashire Loans v. Black 1933 All E.R.201. No evidence of value of property which passed under the deed from the infant to the mother.

P.49 1.3-10.

ref Exhibits 'L', 'K' & 'M' (by Percy Davies) which were put in evidence on behalf of Appellant.

40 C.A.V.

Adjourned for decision. Notice to be given.

(Sgd.) C.G. Ames.

In the Sierra Leone and Gambia Court of Appeal.

No.30.

Judges Notes
- continued.

14th April, 1961.

Civ. 8/61 - Hajah Fatmatta Kata v. I.M. Allie
Parties as before.

Judgment read by Marke, J.

Order: The appeal is allowed and the judgment appealed from is set aside. The Appellant is to have costs here and in the Court below.

(Sgd.) C.G. Ames.

No.31.

Judgment.

14th April,
1961.

No. 31.

JUDGMENT.

10

IN THE SIERRA LEONE AND THE GAMBIA COURT OF APPEAL
Civ. Appeal 8/61.

General Sittings holden at Freetown, in
the Colony of Sierra Leone.

Cor: Cecil Geraint Ames - P.,
Salako Ambrosius Benka-Coker -
C.J. Sierra Leone.
Richard Wright Marke - J. Sierra Leone.

C.C.310/60 In re Estate of Mormodu Allie (deceased)

Hajah Fatmatta Allie - Defendant/Appellant 20

vs.

Ibrahim Mormodu Allie (Administrator
of the Estate of Alhaji Antumani
Allie (deceased) - Plaintiff/Respondent

- and -

C.C.311/60 In re Estate of Mormodu Allie

Hajah Fatmatta katah

vs.

Ibrahim Mormodu Allie (Administrator of
the Estate of Alhaji Antumani Allie
(deceased)

30

For the Appellant - (Mr.M.C.Marke (with him Mr.
E.J.McCormack)

For the Respondent - Mr. Cyrus Rogers-Wright

JUDGMENT

Marke J., This is an appeal from a decision in

two actions in the Supreme Court numbered 310/60 and 311/60 which were by order made on the 22nd November, 1960 consolidated and tried together.

In the Sierra Leone and Gambia Court of Appeal.

In the action numbered 310/60 the Plaintiff claimed to have set aside Conveyances of certain hereditaments executed by Ahmed Alhadi in purported pursuance of a Deed of Family Arrangement and made in favour of the Appellant in this Court. The hereditaments the subject of the Conveyances were enumerated in paragraph 7 of the Statement of Claim and were as follows :-

No.31.

Judgment.

14th April, 1961
- continued.

10

1. No.46, East Street
2. No. 6, Magazine Cut
3. No.48, East Street
4. No.23, East Street
5. No.50, East Street
6. No. 2, Kissy Road

all in Freetown.

20

The Plaintiff-Respondent in his Statement of Claim alleged -

"Ahmed Alhadi mala fide and in collusion with the Defendant conveyed all the above mentioned properties unto and to the use of the said Defendant in fee simple absolute in possession and by the exercise of undue influence over the said Alhaji Antumani Allie (decd.) obtained his execution thereto as Beneficiary under the Will of Mormodu Allie (deceased)".

30

Paragraph 8 of the Statement of Claim alleged that the effect of the said Conveyances was to denude Alhaji Antumani of his entire patrimony and inheritance and at a time when he was an infant and unable to affect the nature and effect of the document he was executing. This paragraph also went on to allege undue influence by the Defendant over Alhadi Antumani Allie her son.

40

In paragraph 9 of the Statement of Claim the Plaintiff alleged that the alleged Deed of Family Arrangement did not exist and if it did exist (which the Plaintiff denied) put the Defendant to strict proof that its purported execution by Alhadi Antumani Allie was free and voluntary and done after he had obtained free and independent advice.

The Plaintiff further put the Defendant to prove that there was an order of the Supreme Court approving the Deed of Family Arrangement dated the 14th June, 1948.

In the Sierra
Leone and
Gambia Court
of Appeal.

No.31.

Judgment.

14th April,
1961

-- continued.

The Defendant in her defence put the Plaintiff to strict proof of the allegation contained in the Plaintiff's Statement of Claim alleging mala fides collusion and the non-existence of the Deed of Family Arrangement and of an order of the Supreme Court approving the same.

The indorsement in the Writ of Summons for action C.C.310/60 did not contain mention of the hereditaments at No.48, East Street and though paragraph 7 of the Statement of Claim in that action mentioned those hereditaments there was no detailed reference to it in the Plaintiff-Respondent's pleading. 10

To cure that omission the Plaintiff-Respondent adopted the rather unusual proceeding of issuing another Writ of Summons numbered 311/60, on the same day as the Writ of Summons numbered 310/60 and filed a Statement of Claim in respect of No.48, East Street in substantially the same terms as regards mala fide collusion and undue influence as the Statement of Claim in action numbered 311/60. 20

The Defendant-Appellant did not file a Statement of Defence in respect of the action numbered 311/60. The facts may be briefly stated as follows -- Mormodu Allie (hereinafter called the Testator) a professing Mohammedan having duly made his Will dated the 20th August 1946 and a Codicil thereto dated the 19th July, 1947 died in Freetown on the 22nd January, 1948. The Executors named in the said Will having renounced Probate Ahmed Alhadi who was then the Official Administrator was appointed Administrator of the Estate of the Testator with the Will and Codicil annexed. 30

The Testator was survived by the Defendant Appellant, Alhaji Antumani Allie a son born to the Testator by the Defendant-Appellant, another widow and several other children. At the time of the death of the Testator, his son Alhaji Antumani Allie was an infant and he also died intestate on the 14th May, 1959, leaving no issue. The Plaintiff-Respondent is the Administrator of the estate of Alhaji Antumani Allie (deceased). 40

The Testator by his Will after diverse devises devised the following hereditaments to the Defendant-Appellant for life with remainder to Alhaji Antumani Allie his heirs and assigns as tenants in common in fee simple; that is to say:

- (1) 23, East Street,
- (2) 2, Kissy Road,
- (3) 6, Magazine Cut.

In the Sierra Leone and Gambia Court of Appeal.

No.31.

Judgment.

14th April, 1961
- continued.

Nos.46 and 50 East Street, the Testator devised to the Defendant-Appellant for her life or until re-marriage with remainder to her son Alhaji Antumani and any other child or children born to him by the Defendant-Appellant as tenants in common.

10 No.48 East Street the Testator devised upon trust for Alhaji Antumani his heirs and assigns as tenants-in-common.

20 It is part of the Defendant-Appellant's case that on the 14th July, 1948 a Judge's Order was obtained approving the terms of a Deed of Family Arrangement of the same date and registered in the office of the Registrar-General and the parties to that Deed were the Defendant-Appellant, Ahmed Alhadi Administrator with the Will annexed of the Testator's Estate, and Alhaji Antumani Allie. That Deed varied the trusts of Testator's Will so far as they affected Alhaji Antumani Allie and (1) vested in the Defendant-Appellant in fee simple the following hereditaments:-

23, 46, 48, 50 East Street respectively and 6, Magazine Cut.

(2) It vested in Ahmed Alhadi in trust for Antumani the following hereditaments:-

- 6, Magazine Street
- 17 and 17A, Martin Street
- 30 9, Walpole Street and

(3) Provided for payment by Defendant-Appellant out of her own monies to Antumani a sum of £1,000 for reconditioning 9 Walpole Street and a further sum of £1,500 to provide the Advancement in life of Antumani.

40 Mr. Young a witness for the Defence at the trial said that he had been unable to trace the file C.C.185/48 - "In the Matter of the Estate of Mormodu Allie (deceased) and In the Matter of the Trusts affecting Antumani (an infant); containing the Judge's Order approving the Deed of Family Arrangement but continuing his evidence, he said:

"It once existed because there is a record of it in the Cause Book".

The Cause Book was admitted in evidence and Mr. Young read the entries in the Cause Book relating

In the Sierra Leone and Gambia Court of Appeal.

No.31.

Judgment.

14th April, 1961.

- continued.

to C.C.185/48 The learned trial Judge after referring to arguments by both Counsel on this point said:

"It is unfortunate and perhaps to be deprecated, that a file of our Supreme Court relating to a matter which appeared to have come before it could not be traced. However it is I think the law that orders and proceedings of the Supreme Court are proved by the originals and office copies. Neither has been forthcoming in this case due to no fault of the parties concerned

10

x x x x

"Now the Cause Book shows that a summons was issued in June, 1948 for the approval of a Deed of Family Arrangement. "In the Matter of the Estate of Momordu Allie (deceased) and in the Matter of the Trusts affecting Alhaji Antumani an infant". Three Solicitors, all alive appear to have taken part in this case, namely "Messrs. E.A.C. John, C.O.E. Cole, C.Rogers-Wright. The cause Book shows that Mr.C.B.Rogers-Wright on the 22nd July filed an Affidavit in opposition to the Application etc.

20

x x x x

"None of the Solicitors was called to produce an office copy of this order, that is of course if they have any in their possession, nor to give such other evidence as may have assisted this Court.

30

In the circumstances it is difficult for the Court to come to the conclusion that the terms recited in the alleged Deed of Family Arrangement were in fact those approved of in the Judge's Order on which the Defendant relies".

The Appellant has brought this appeal on 11 grounds but for the purpose of this decision, we need only consider grounds 2, 3, 4, 5 and 6 which are as follows :-

40

The second ground of appeal is as follows:-

"The Court below was not competent to set aside the Deed of Family Arrangement dated the 14th July, 1948 or the Deeds of Conveyance made in pursuance of the said Deed, relating to the properties situate at 23, East Street, 46, East Street, 6,

"Magazine Cut and 2 Kissy Road all being in Freetown executed by Ahmed Alhadi then Official Administrator as Administrator of the Estate of Mormodu Allie (Deceased) with his Will and confirming Codicil annexed in favour of the Defendant".

In the Sierra Leone and Gambia Court of Appeal.

No.31.

Judgment.

14th April, 1961

- continued.

10

(3) "The learned trial Judge was wrong in law in holding that the said Deed of Family Arrangement was not a valid Deed of Family Arrangement".

(4) "That the learned trial Judge was wrong in holding that the said Deeds of Conveyance made in pursuance of the terms in the Deed of Family Arrangement relating to 23, East Street 46, East Street 48, East Street and 50 East Street could be set aside.

20

(5) "That the learned trial Judge erred in law in not holding that the said Deed of Family Arrangement could not be set aside as the parties thereto could not be restored to their respective position".

(6) "The finding of the learned trial Judge that inadequacy of consideration invalidated the Deed of Family Arrangement could not be supported in law in the circumstances of the case".

30

It seems to us nevertheless that the first if not the main ground to be determined on this appeal is whether there is evidence from which it can be said that a Judge's Order was in fact made on the 14th July, 1948 approving the terms of the Deed of Family Arrangement.

40

It is not disputed that the best evidence in proof of this Judge's Order was not available despite search thereof by the acting Master and Registrar. That at once opens the way for the admission of secondary evidence and there being no degrees of secondary evidence, such secondary evidence might properly be the cause book that was admitted in evidence, or office copies of the order if available or, to quote from the Judgment of the learned Judge:

"Such other evidence as may have assisted the Court".

In the Sierra Leone and Gambia Court of Appeal.

No.31.
Judgment.
14th April, 1961
- continued.

It seems to us that the proper consideration in cases where recourse has been had to secondary evidence is to consider the weight which such secondary evidence together with other evidence adduced, bears on the matter in issue.

At the trial three Indentures of Conveyance were admitted in evidence and marked 'K' 'L' 'M' respectively, Exhibit 'L' which was the first in time was dated the 14th September, 1954 and expressed to be made between Percy Richard Davies described as Official Administrator of Estate in Sierra Leone of the one part and Alhadi Antumanie of the other part which was a Conveyance of hereditaments and premises at 8, Magazine Street.

10

The second in time of those Conveyances marked 'K' at the trial, was dated the 18th September, 1954, and expressed to be made between Alhadi Antumanie of the one part and Boie Kamara of the other part being a Conveyance of a piece of land in Martin Street.

20

The third Conveyance marked 'M' at the trial, was dated the 5th April 1956, and expressed to be made between Alhadi Antumanie of the one part and Nuctarr Kallay of the other part being a Conveyance of No.8 Magazine Street.

It seems to us of particular significance that the Conveyances marked 'K' and 'L' and made about six years after the Judge's Order dated the 14th July, 1948 could each of them have recited that order and the Deed of Family Arrangement. If as suggested by the Plaintiff-Respondent that the Deed of Family Arrangement did not exist it would be difficult to account for this recital in the Conveyances marked 'K' and 'L' which were not made by the same Solicitor who made the Deed of Family Arrangement.

30

The learned Trial Judge in dealing with the Exhibits marked 'K', 'L' and 'M' said --

"Mr. Marke said that the facts show that when Antumanie attained majority, he did nothing to repudiate the Deed and in fact Ahmed Alhadi in 1954 conveyed to him in fee simple the properties 17 and 17A Martin Street and 8, Magazine Street respectively in pursuance of the Deed of Family Arrangement".

40

x

x

x

x

When in September 1954 Ahmed Alhadi conveyed to him 17 and 17A Martin Street and 8, Magazine Street and when he sold these properties he had passed his majority.

In the Sierra Leone and Gambia Court of Appeal.

10 From the Judge's notes of the address of Mr. Marke, there is no note that Mr. Marke said that Ahmed Alhadi conveyed the hereditaments referred to in Exhibits 'K', 'L' and 'M' to Antumanie and if he did say so it was obvious from an inspection of the Exhibits that Ahmed Alhadi did not convey the hereditaments referred to in Exhibits 'K', 'L' 'M'; and it is not unlikely that the incorrect promise as to who did in fact convey the hereditaments referred to in Exhibits 'K', 'L' and 'M' might have misled the trial Judge in properly directing his mind to the evidence before him.

No.31.
Judgment.
14th April,
1961
- continued.

20 The evidence of the cause book and of the recitals in Exhibits 'K', 'L', 'M', irresistably draw us to the conclusion that the Deed of Family Arrangement was approved by a Judge's Order dated the 14th July, 1948. Having so held it follows that the Supreme Court was not competent to review the Judge's Order dated the 14th July, 1948.

No. 2, Kissy Road, however, was not included in the Deed of Family Arrangement. The facts are that the Testator at the time of his death had not fully paid the price of these premises.

30 By his Will he devised No.2 Kissy Road to the Defendant/Appellant for the term of her life or until re-marriage with remainder to Antumani his heirs and assigns in fee simple and as tenants in common.

40 The learned trial Judge described the conveyance of these premises to the Defendant-Appellant as a flagrant breach of trust and contrary to the expressed provision of the Testator's Will. It is clear that on the Testator's death, part of the purchase price on No.2, Kissy Road was unpaid. That unpaid purchase price became a charge on No.2 Kissy Road and unless there was a contrary intention in the Will the provisions of the Real Estate Charges Acts 1854-1877 (Locke Kings Acts) should apply.

We can find no contrary intention in the Will. The premises No.2 Kissy Road are charged with the payment of the unpaid purchase money and the Administrator cannot apply moneys from the estate to pay off this charge. The Defendant-Appellant who is residuary devisee and legatee under the Will

In the Sierra Leone and Gambia Court of Appeal.

No.31.

Judgment
14th April,
1961
- continued.

paid off the Charge and the hereditaments were in our opinion rightly conveyed to her.

For the reasons already stated we will allow this appeal and set aside the judgment (including the order as to costs) of the learned trial Judge.

On the question of costs the Defendant-Appellant will have her taxed costs in this Court and in the Court below.

(Sgd.) R.B. Marke,
J., Sierra Leone.

10

(Sgd.) C.G. Ames,
P.

(Sgd.) S.A.Benka-Coker,
C.J., Sierra Leone.

Freetown,
Sierra Leone,
14th April, 1961.

Certified True Copy
(Sgd.) W.S. Young,
Acting Registrar.

No.32.

Order granting Final Leave to Appeal to Her Majesty in Council.

15th August,
1961.

No. 32.

ORDER GRANTING FINAL LEAVE TO APPEAL TO
HER MAJESTY IN COUNCIL.

20

Civil Appeal No.8 of 1961

IN THE COURT OF APPEAL FOR SIERRA LEONE
IN THE ESTATE OF MOMORDU ALLIE (Deceased)
IBRAHIM MOMORDU ALLIE Plaintiff-Appellant
- and -
HAJAH FATMATTA KATAH Defendant-Respondent

TUESDAY the 11th JULY, 1961
BEFORE HIS LORDSHIP THE ACTING CHIEF JUSTICE

THIS APPLICATION for Final Leave to Appeal to the Privy Council coming up for hearing this day before His Lordship Samuel Bankole Jones Acting Chief Justice in the presence of Cyrus Rogers-Wright, Esq., of Counsel on behalf of the Plaintiff-Appellant and Melville Crowther Marke, Esq., of Counsel on behalf of the Defendant-Respondent;

30

UPON HEARING the Affidavits filed herein,
and
UPON HEARING what was alleged by Counsel on
both sides;

IT IS ORDERED:

That the Plaintiff-Appellant herein be granted
Final Leave to Appeal to the Judicial Committee of
the Privy Council.

DATED the 15th day of August, 1961.

10

BY THE COURT

W.S. YOUNG,

ACTING REGISTRAR,

SIERRA LEONE COURT OF APPEAL.

In the Sierra
Leone and
Gambia Court
of Appeal.

No.32.

Order granting
Final Leave to
Appeal to Her
Majesty in
Council.

15th August,
1961

- continued.

ExhibitsE X H I B I T S

'E'

'E' - CONVEYANCE OF AHMED ALHADI TO JOHN A.C. KABIA WILLIAMS

Conveyance of
Ahmed Alhadi to
John A.C. Kabia
Williams.
21st May, 1948.

THIS INDENTURE made the 21st day of May in the year of our Lord One thousand nine hundred and forty eight BETWEEN Ahmed Alhadi of the Law Courts Westmoreland Street, Freetown in the Colony of Sierra Leone Master and Registrar (hereinafter called the Vendor) of the first part and John Augustus Clarence Kabia Williams of 5, Trelawney Street in Freetown aforesaid (hereinafter called the Purchaser) of the second part and Jacob Williamson Sawyerr of 15, Malta Street and John Ernest Bankole Weekes of 4, Lake Street both of Freetown in the Colony aforesaid (hereinafter called the Trustees) of the other part WHEREAS by an Order of Court filed the 19th day of February, 1948 in the matter of the "Estate of James Waburton (deceased) Re 78, Fourah Bay Road Freetown" the hereditaments and premises described as 78, Fourah Bay Road aforesaid were ordered to be sold by public auction and that on the completion of such sale the Vendor "do execute the deeds of conveyance and all other assurances for conveying the said hereditaments and premises to the Purchaser or Purchasers thereof" AND WHEREAS the said hereditaments and premises were on the 26th day of February, 1948 put up for sale by public auction and at which sale the said Purchaser and the Trustees under his direction were the highest bidder at the sum of £255 (Two hundred and fifty five pounds) and the said Purchaser was declared the Purchaser thereof AND WHEREAS by a Will dated the 16th day of November, 1932 Henry Thomas Kabia Williams (hereinafter called the Testator) who died on the 8th day of September 1934 and whose said Will was duly proved in the Probate Jurisdiction of the Supreme Court of the Colony aforesaid Samuel Theophilus Johnson, William Lionel Betts Theodore Sylvester Harrison Williams and the said Purchaser were appointed Executors and Trustees of certain freehold hereditaments situate at 26, Little East Street in Freetown aforesaid which said hereditaments situate at 26, Little East Street in Freetown aforesaid which said hereditaments were devised unto and to the use of the Purchaser during his life with remainders over AND WHEREAS the said Testator died without having revoked or altered his said

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Exhibits

'E'

Conveyance of
Ahmed Alhadi to
John A.C. Kabia
Williams.

21st May, 1948
- continued.

Will Probate of which was on the 15th day of November, 1934 granted by the Supreme Court of the Colony aforesaid to the said Samuel Theophilus Johnson and William Lionel Betts two of the Executors therein named AND WHEREAS the said Samuel Theophilus Johnson William Lionel Betts, Theodore Sylvester Harrison Williams and the said Purchaser as such executors and trustees as aforesaid had no power of sale or of consenting to or approval of the exercise of the power of sale of the said hereditaments and there were no trustees of the settlement created by the said Will in the said hereditaments for the purpose of the Settled Land Acts 1882 to 1890 AND WHEREAS by an Order of the Supreme Court of the Colony aforesaid dated the 6th day of July, 1946 and made "In the matter of a certain freehold house situate at 26, Little East Street Freetown in the Colony of Sierra Leone settled by a Will of Henry Thomas Kabia Williams dated the 16th day of November, 1932 AND "In the matter of the Settled Land Act 1882" the said Jacob Williamson Sawyerr and John Ernest Bankole Weekes were appointed trustees under the Settlement created by the said Will in the said hereditaments for the purpose of the said Act AND WHEREAS by a duly registered Indenture of Conveyance bearing date the 7th day of August 1946 the said Purchaser and the Trustees under his direction sold the said hereditaments therein described and for the price therein mentioned NOW THIS INDENTURE WITNESSETH that in pursuance of the hereinbefore recited premises and in consideration of the sum of Two hundred and fifty five pounds sterling (£255) paid by the Trustees out of Capital monies realised on the above-mentioned sale and which is under their control as such trustees as aforesaid and under the direction of the said Purchaser (the receipt whereof the Vendor doth hereby acknowledge) HE the Vendor doth hereby grant and convey unto the said John Augustus Clarence Kabia Williams All that lot piece or parcel of land situate lying and being in Fourah Bay Road Freetown aforesaid numbered 78 for the purposes of rates and bounded on the North by Fourah Bay Road aforesaid 40 feet on the South by Patten Lane 36 feet on the East by properties in the possession or occupation of Mr. R.E.A. Jones and Mr. Hughes 92 feet 9 inches and on the West by property forming part of the estate of Mrs. Peacock 75 feet as is delineated in a plan drawn and attached to these presents and thereon edged

Exhibits

'E'

Conveyance of
Ahmed Alhadi to
John A.C.Kabia
Williams.

21st May, 1948
- continued.

RED TO HOLD the said hereditaments and premises
UNTO the said Purchaser his heirs and assigns to
the uses upon the trusts and with and subject to
which the lands and hereditaments settled by the
said Will of the said Testator now stand limited
under and by virtue of the said Will IN WITNESS
whereof the Vendor and the Purchaser and the
Trustees have hereunto set their respective hands
and seals the day and year first above written.

SIGNED SEALED AND DELIVERED)			10
by the within-named AHMED)	A. ALHADI	(L.S.)	
ALHADI, JOHN AUGUSTUS)	JACOB W.		
CLARENCE KABIA WILLIAMS,)	SAWYERR	(L.S.)	
JACOB WILLIAMSON SAWYERR)			
and JOHN ERNEST BANKOLE)	J.E. BANKOLE		
WEEKS in the presence of:--)	WEEKS	(L.S.)	

Christopher G.O.Walton-Lewis,
C/o Master's Office,
Law Courts, Freetown. 20

D.N. Omotayo Hill,
Solicitor's Clerk,
Freetown.

396/24813/48

This instrument was proved by the Testimony of
Christopher G.O. Walton-Lewis and David N.O.Hill
respectively within named to be the act and deed
of Ahmed Alhadi within named before me this 20th
day of July, 1948 at 9.58 o'clock in the fore-
noon.

30

W.S. Young

Deputy Registrar General for the
Colony of Sierra Leone.

Certified true copy

W.S. Young

Deputy Registrar General.

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.
15th July, 1948.

'E' (Contd.) - CONVEYANCE OF AHMED ALHADI, OFFICIAL
ADMINISTRATOR TO AJAH F. KATAH

THIS INDENTURE is made the 15th day of July, 1948
BETWEEN AHMED ALHADI of Number 19 Fifth Street in 40
Freetown in the Colony of Sierra Leone Official
Administrator of Estate for Sierra Leone (herein-
after called the Administrator) of the one part and

AJAH FATMATAH KATAH of Number 8 Magazine Street in Freetown aforesaid widow according to Mohammed-an Law (hereinafter called the Purchaser) of the other part WHEREAS by an Indenture of Conveyance and Mortgage dated the Second day of May 1933 and expressed to be made between Abdul Pattah Kajib About therein described of the first part Mormordu Allie then of Martin Street in Freetown aforesaid Butcher (hereinafter called the Testator) of the second part and Bank of British West Africa Limited therein described (hereinafter called the Bank) of the third part the land situate at East Street in Freetown aforesaid hereby assured Numbered 965 in the Register and Plan of Town lots for Freetown and also now numbered 46 East Street by the City Council for the City Council's purposes hereinafter fully defined and described was conveyed to the Testator by the party of the first part therein for the consideration mentioned for an estate in fee simple in possession free from incumbrances and the said land was by the said Indenture of Conveyance and Mortgage conveyed by the Testator to the Bank in fee simple by the Testator being of mortgage security for a loan then made by the Bank to the Testator AND WHEREAS by an Indenture of Release dated the Sixteenth day of August 1938 expressed to be made between the Bank of the one part and the Testator of the other part the said land was conveyed by the Bank to the Testator freed and absolutely discharged from all moneys due and owing in respect of the mortgage and all claims and demands under the said Indenture of Conveyance and Mortgage AND WHEREAS the Testator died on the 22nd day of January 1948 having duly made and executed his last Will dated the 30th day of August, 1946 and the Codicil to the said Will dated the 19th day of July 1947 AND WHEREAS the Testator appointed the said Purchaser and one Alhadi Barber and one Alhadi Antumani (hereinafter called the Beneficiary) Executors and Trustees of his said Will and the Codicil thereto AND WHEREAS the Executors and Trustees appointed by the Will not having intermeddled in the Estate of the Testator by a paper writing dated the 10th day of February 1948 renounced all right and title to probate and execution of the Will and Codicil AND WHEREAS by virtue of an Order of a Judge of the Supreme Court of Sierra Leone the Administrator as Official Administrator of Estates was granted out of the Supreme Court aforesaid Letters of Administration with the

Exhibits

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.

15th July,
1948

- continued.

Exhibits

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.

15th July,
1948

- continued.

said Will and Codicil annexed to the estate of the Testator AND WHEREAS the freehold land situate in East Street aforesaid was vested in the Testator at the time of his death for an estate in fee simple in possession free from incumbrances AND WHEREAS the Testator by his Will devised the said land to the Purchaser during her widowhood and thereafter to the Trustees of his Will Upon trust for the use and benefit of the Beneficiary AND WHEREAS by a Deed of Family Arrangement approved of by the Supreme Court aforesaid on the 14th day of July, 1948 and made between the Purchaser described as of the first part the Beneficiary as of the second part and the Administrator as of the third part it was agreed that for the consideration therein mentioned amongst other things the Purchaser should become seised of the said land in East Street aforesaid numbered 965 in the Register and Plan of Town lots of land for Freetown for an unincumbered estate in fee simple freed from the estate in remainder devised by the said Will of the Testator to his executors and trustees Upon trust for the Beneficiary AND WHEREAS the Administrator at the request of the Purchaser has agreed to convey to her the said land in East Street numbered 965 in the Register and Plan of Town Lots of Land for Freetown NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the premises the Administrator as Administrator of the estate of the Testator hereby conveys unto the Purchaser All that plot or parcel of land situate in East Street in Freetown aforesaid numbered 965 in the Register and Plan of Town Lots of land for Freetown and 46 by the Freetown City Council for Council's purposes which plot of land is bounded on the North by land in possession of the Sierra Leone Government Railway Eighty Eight feet (88') on the South by land the property of the Testator Eighty feet (80') more or less on the East by land situate at number 1 East Brook Street now or lately the property of Albert Emeric Tuboku-Metzger Seventeen feet (17') on the West by East Street aforesaid Forty six feet and six inches (46'6") the same is delineated on the plan drawn and attached to these presents and thereon verged and coloured RED or howsoever otherwise the same may be known bounded or distinguished TO HOLD the same unto and to the use of the Purchaser in fee simple IN WITNESS whereof the Administrator and Purchaser have hereunto set their

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hands and seals the day and year first above written.

Exhibits

'E' (Contd.)

SIGNED SEALED AND DELIVERED)
 by AHMED ALHADI in the) A. ALHADI (L.S.)
 presence of :-

Conveyance of
 Ahmed Alhadi,
 Official Ad-
 ministrator to
 Ajah F.Katah.

M.S. M'Cauley,
 13, Regent Road, Freetown.
 Retired Civil Servant.

15th July,
 1948

- continued.

10 Eric O. Johnson,
 Civil Servant,
 8, Walpole Street, Freetown.

SIGNED SEALED AND DELIVERED)
 by HAJAH FATMATTAH KATAH) HAJAH FATMATTAH
 in the presence of :-) KATAH (L.S.)

M.S. M'Cauley,
 13, Regent Road, Freetown,
 Retired Civil Servant.

20 Eric O. Johnson,
 Civil Servant,
 8, Walpole Street, Freetown.

397/24814/48.

This instrument was proved by the testimony of Eric Olatunde Johnson within named to be the act and deed of Ahmed Alhadi (Official Administrator) before me this 21st day of July, 1948 at 12.43 o'clock in the afternoon.

W.S. Young,

Deputy Registrar General for
 the Colony of Sierra Leone.

30 Certified true copy

W.S. Young

Deputy Registrar General.

40 THIS INDENTURE is made the 15th day of July, 1948 BETWEEN AHMED ALHADI of Number 19 Fifth Street in Freetown in the Colony of Sierra Leone Official Administrator of Estates for Sierra Leone (hereinafter called the Administrator) of the one part and AJAH FATMATTAH KATAH of Number 8 Magazine Street in Freetown aforesaid widow according to Mohammedan Law (hereinafter called the Purchaser)

Exhibits
 'E' (Contd.)
 Conveyance of
 Ahmed Alhadi,
 Official Ad-
 ministrator to
 Ajah F.Katah.
 15th July,
 1948
 - continued.

of the other part WHEREAS by an Indenture of Sale dated the 26th day of August 1932 and expressed to be made between Jeremiah Amos John therein described as of the one part and Abraham Backrin Sillah as of the other part which is registered as Number 217 in Volume 123 on page 676 of the Book of Conveyances kept by the Registrar General for Sierra Leone for the consideration therein mentioned the plot of land situate at Magazine Cut in Freetown aforesaid numbered 6 by the Freetown City Council for Council's purposes was conveyed to the said Abraham Backrin Sillah for an estate in fee simple in possession free from incumbrances AND WHEREAS by an Indenture of Sale dated the 9th day of May 1944 expressed to be made between the said Abraham Backrin Sillah of the one part and Mormordu Allie then of Martin Street in Freetown aforesaid Butcher (hereinafter called the Testator) of the other part for the consideration therein mentioned the said plot of land situate at Magazine Cut in Freetown aforesaid hereby assured numbered 6 by the Freetown City Council for the City Council's purposes hereafter fully defined and described was conveyed to the Testator for an estate in fee simple in possession free from incumbrances AND WHEREAS the Testator died on the 22nd day of January 1948 having duly made and executed his last Will dated the 30th day of August 1946 and the Codicil to the said Will dated the 19th day of July 1947 AND WHEREAS the Testator appointed the said Purchaser and one Alhadi Barber and one Alhadi Antumani (hereinafter called the beneficiary) executors and trustees of his said last Will and the Codicil thereto AND WHEREAS the Executors and Trustees appointed by the Will not having intermeddled in the estate of the Testator by a paper writing dated the 10th day of February 1948 renounced all right and title to probate and execution of the Will and Codicil AND WHEREAS by virtue of an Order of a Judge of the Supreme Court of Sierra Leone the Administrator as Official Administrator of Estates was granted out of the Supreme Court aforesaid Letters of Administration with the said Will and Codicil annexed to the estate of the Testator AND WHEREAS the freehold land situate in Number 6 Magazine Cut aforesaid was vested in the Testator at the time of his death for an estate in fee simple in possession free from incumbrances AND WHEREAS the Testator by his Will devised the said land to the Purchaser

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during her widowhood and thereafter to the Trustees of his Will Upon trust for the use and benefit of the beneficiary AND WHEREAS by a Deed of Family Arrangement dated and approved of by the Supreme Court aforesaid on the 14th day of July 1948 and made between the Purchaser described as of the first the beneficiary as of the second part and the Administrator as of the third part it was agreed that for the consideration therein mentioned amongst other things the Purchaser should become seised of the said land in Magazine Cut numbered 6 by the Freetown City Council as aforesaid for an unincumbered estate in fee simple in possession freed from the estate in remainder devised by the said Will of the Testator to his Executors and Trustees Upon trust for the benefit of the Beneficiary AND WHEREAS the Administrator at the request of the Purchaser has agreed to convey to her the Purchaser the said land in Magazine Cut numbered 6 by the Freetown City Council as aforesaid NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the premises the Administrator as Administrator of the estate of the Testator hereby conveys unto the Purchaser all that plot or parcel of land situate lying and being in Magazine Cut in Freetown aforesaid numbered 6 by the Freetown City Council for Council's purposes which is bounded on the North by Guard Street which runs parallel to a track of the Sierra Leone Government Railway Eighty feet more or less (80') on the South by land formerly belonging to the Estate of Emilia Coker deceased but now in the possession of a Mr. Anthony Fifty four feet (54') on the East by Magazine Cut aforesaid Sixty five feet (65') and on the West by land formerly belonging to the estate of David Browne deceased but now in the possession of Mrs. Charlotte Ellis Sixty three feet six inches (63'6") more or less the same is delineated on the plan drawn and attached to these presents and thereon is verged RED or howsoever otherwise the same may be known bounded distinguished TO HOLD the same unto the use of the Purchaser in fee simple IN WITNESS whereof the Administrator and Purchaser have hereunto set their hands and seals the day and year first above written

SIGNED SEALED AND DELIVERED)
 by AHMED ALHADI in the) A. ALHADI (L.S.)
 presence of :--

Exhibits

'E' (Contd.)
 Conveyance of
 Ahmed Alhadi,
 Official Ad-
 ministrator to
 Ajah F.Katah.

15th July,
 1948

- continued.

Exhibits
'E' (Contd.)
Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.
15th July,
1948
- continued.

M.S. M'Cauley,
13, Regent Road, Freetown,
Retired Civil Servant.

Eric O. Johnson,
Civil Servant,
8, Walpole Street, Freetown.

SIGNED SEALED AND DELIVERED)
by HAJAH FATMATTAH KATAH in) HAJAH FATMATTAH
the presence of :-) KATAH (L.S.)

M.S. M'Cauley,
13, Regent Road, Freetown,
Retired Civil Servant.

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Eric O. Johnson,
Civil Servant,
8, Walpole Street, Freetown.

398/24815/48

This Instrument was proved by the Testimony of
Eric Olatunde Johnson within named to be the act
and deed of Ahmed Alhadi (Official Administrator)
before me this 21st day of July 1948 at 12.44
o'clock in the afternoon.

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W.S. Young,

Deputy Registrar General for
the Colony of Sierra Leone.

Certified true copy

W.S. Young,

Deputy Registrar General.

THIS INDENTURE is made the 15th day of July 1948
BETWEEN AHMED ALHADI of Number 19 Fifth Street
in Freetown in the Colony of Sierra Leone Official
Administrator of Estates (hereinafter called the
Administrator) of the one part and AJAH FATMATTAH
KATAH of Number 8, Magazine Street in Freetown
aforesaid widow according to Mohammedan law (here-
inafter called the Purchaser) of the other part
WHEREAS by an Indenture made the 26th day of
August 1936 between John Edward Bright and Jabez
Ashley Bright both therein described as of the
first part and Mormordu Allie then of Martin Street
in Freetown Butcher (hereinafter called the Testa-
tor) of the other part registered in Volume 130
on page 40 of the Register of Conveyances kept in

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the office of the Registrar-General for the Colony aforesaid for the consideration therein mentioned the town plot or land situate at East Street in Freetown aforesaid numbered 967 in the register and Plan of town lots of land for Freetown was one of the plots of land conveyed to the Testator for an unincumbered estate in fee simple in possession AND WHEREAS the Testator died on the 22nd day of January 1948 having duly made and executed his last Will dated the 30th day of August 1946 and the Codicil to the said Will dated the 19th day of July, 1947 AND WHEREAS the Testator appointed the Purchaser and one ALHADI BARBER and one AJHADI ANTUMANI (hereinafter called the Beneficiary) the Executors and Trustees of his said Will and the Codicil thereto AND WHEREAS the Executors and Trustees appointed by the Will not having inter-meddled in the estate of the Testator by a paper writing dated the 10th day of February 1948 renounced all right and title to probate and execution of the said Will and Codicil AND WHEREAS by an Order of a Judge of the Supreme Court of Sierra Leone the Administrator as Official Administrator of Estates was granted out of the Supreme Court aforesaid Letters of Administration with the said Will and Codicil annexed to the Estate of the Testator AND WHEREAS the freehold land situate in East Street aforesaid numbered 967 in the Register and Plan of Town Lots of land for Freetown and 48 by the Freetown City Council for Council's purposes was vested in the Testator at the time of his for an estate in fee simple in possession free from incumbrances AND WHEREAS the Testator by his Will devised the said land numbered 967 in the Register and Plan of town lots of land for Freetown and 48 by the Freetown City Council as aforesaid to his Executors and Trustees Upon Trust for the Beneficiary absolutely AND WHEREAS by a Deed of Family Arrangement dated and approved of by the Supreme Court aforesaid on the 14th day of July, 1948 and made between the Purchaser described as of the first part the Beneficiary as of the second part and the Administrator as of the third part it was agreed for the consideration therein mentioned amongst other things that the Purchaser should become seised of the said plot of land in East Street numbered 967 in the Register and Plan of Town lots of land for Freetown and 48 by the Freetown City Council as aforesaid for an unincumbered estate in fee simple in possession

Exhibits

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.

15th July,
1948

- continued.

Exhibits

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.

15th July,
1948

- continued.

irrespective of the devise made in relation to the said plot of land by the Testator by his said Will AND WHEREAS the Administrator at the request of the Purchaser has agreed to convey to her the said plot of land in East Street aforesaid numbered 967 in the Register and Plan of Town lots of land for Freetown and 48 by the Freetown City Council as aforesaid NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the premises the Administrator as Administrator of the Estate of the Testator hereby conveys unto the Purchaser ALL THAT plot or parcel of Land situate and being in East Street in Freetown numbered 967 in the Register and Plan of Town lots of land for Freetown and 48 by the Freetown City Council which is bounded on the North by land belonging to the Estate of the Testator Eighty feet more or less on the South by land belonging to the Testator Eighty feet more or less on the East by premises numbered 1 East Brook Street the property of Albert Emeric Tuboku-Metzger Forty feet more or less and on the West by East Street aforesaid Forty feet more or less the same is delineated on the plan drawn and attached to these presents and thereon is edged round and coloured Red or howsoever otherwise the same may be known bounded or distinguished TO HOLD the same unto and to the use of the Purchaser in fee simple IN WITNESS whereof the Purchaser and Administrator have hereunto set their hands and seals the day and year first above written.

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SIGNED SEALED AND DELIVERED)
by the above-named AHMED) A. ALHADI (L.S.)
ALHADI in the presence of:-)

M.S. M'Cauley,
13, Regent Road, Freetown,
Retired Civil Servant.

Eric O. Johnson,
Civil Servant,
8, Walpole Street, Freetown.

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SIGNED SEALED AND DELIVERED)
by the above-named AJAH) HAJAH FATMATTA
FATMATTAH KATAH in the) KATAH (L.S.)
presence of:-)

M.S. M'Cauley,
13, Regent Road, Freetown,
Retired Civil Servant.

Eric O. Johnson,
Civil Servant,
8, Walpole Street, Freetown.

399/24816/48

This instrument was proved by the testimony of Eric Olatunde Johnson within named to be the act and deed of Ahmed Alhadi (Official Administrator) before me this 21st day of July, 1948 at 12.45 o'clock in the afternoon.

W.S. Young,

Deputy Registrar General for
the Colony of Sierra Leone.

Exhibits

'E' (Contd.)
Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F.Katah.

15th July,
1948

- continued.

10 Certified true copy

W.S. Young,

Deputy Registrar General.

THIS INDENTURE is made the 15th day of July, 1948 BETWEEN AHMED ALHADI of Number 19, Fifth Street in Freetown in the Colony of Sierra Leone Official Administrator of Estates (hereinafter called the Administrator) of the one part and AJAH FATMATTAH KATAH of Number 8, Magazine Street in Freetown aforesaid widow according to Mohammedan Law (hereinafter called the Purchaser of the other part

20 WHEREAS by an Indenture of Sale expressed to be made on the Sixth day of June, 1926 Between Edward Wigram Walters therein described of the one part and Mormordu Allie of Magazine Street Butcher (hereinafter called the Testator) of the other part for the consideration therein mentioned the two plots of land situate lying and being in East Street in Freetown numbered 30 and 31 in the Register and Plan of Town lots of land for Freetown

30 hereinafter fully described and defined were conveyed to the Testator for an unincumbered estate in fee simple in possession AND WHEREAS the Testator died on the 22nd day of January 1948 having duly made and executed his last Will dated the 30th day of August 1946 and the Codicil to the said Will dated the 19th day of July 1947 AND WHEREAS the Testator appointed the Purchaser and one Alhadi Barber and one Alhadi Antumani (hereinafter called the Beneficiary) Executors and Trustees of his said

40 last Will and the Codicil thereto AND WHEREAS the Executors and Trustees appointed by the Will not having intermeddled in the estate of the Testator by a paper writing dated the 10th day of February 1948 renounced all right and title to probate and execution of the Will and Codicil AND WHEREAS by virtue of an Order of a Judge of the Supreme Court

Exhibits

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F. Katah.

15th July,
1948

- continued.

of Sierra Leone the Administrator as Official Ad-
 ministrator of Estates was granted out of the
 Supreme Court Letters of Administration with the
 said Will and Codicil annexed to the estate of the
 Testator AND WHEREAS the said two plots of land
 situate in East Street aforesaid was vested in the
 Testator at the time of his death for an estate in
 fee simple in possession free from incumbrances
 AND WHEREAS the Testator by his Will devised the
 said two plots of land numbered 30 and 31 in the
 Register and Plan of Town Lots of land for Free-
 town and 23 by the Freetown City Council for Coun-
 cil's purposes to the Purchaser during her widow-
 hood and thereafter to his executors and trustees
 Upon Trust for the use and benefit of the Benefici-
 ary AND WHEREAS by a Deed of Family Arrangement
 dated and approved by the Supreme Court aforesaid
 on the 14th day of July 1948 and made between the
 Purchaser of the first part the Beneficiary of the
 second part and the Administrator of the third
 part it was agreed amongst other things for the
 consideration therein mentioned that the Purchaser
 should become seised of the said two plots of land
 in East Street aforesaid numbered 30 and 31 in the
 Register and Plan of Town Lots of land for Freetown
 and 23 by the Freetown City Council for Council's
 purposes for an unincumbered estate in fee simple
 in possession freed and discharged from the estate
 in remainder devised by the said Will of the Tes-
 tator to his trustees upon trust for the use and
 benefit of the Beneficiary AND WHEREAS the Ad-
 ministrator at the request of the Purchaser has
 agreed to convey to her the said two plots of land
 in East Street aforesaid NOW THIS INDENTURE WIT-
 NESSETH that in pursuance of the said agreement
 and in consideration of the premises the Adminis-
 trator as Administrator of the Estate of the Tes-
 tator hereby conveys unto the Purchaser all those
 two plots of land in East Street in Town Lots of
 land for Freetown and 23 by the Freetown City
 Council for Council's purposes which two plots of
 land are bounded on the North by land now the
 property of the United Africa Company Limited and
 formerly belonging to the Estate of J.W. Macauley
 deceased Seventy eight feet and six inches more or
 less on the South by land formerly belonging to
 Joseph Emanuel Horton Elliot but now the property
 of Walter Nicol Seventy eight feet and six inches
 (78'6") more or less on the East by East Street
 aforesaid Seventy feet (70') and on the West by

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premises of the Methodist Zion Church Seventy feet (70') the same is delineated on the plan drawn and attached to these presents and thereon is verged and coloured RED or howsoever other the same may be known bounded or distinguished TO HOLD the same unto and to the use of the Purchaser in fee simple IN WITNESS whereof the Administrator and Purchaser have hereunto set their hands and seals the day and year first above written

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A. ALHADI (L.S.)

HAJAH FATMATTAH KATAH (L.S.)

Exhibits

'E' (Contd.)

Conveyance of
Ahmed Alhadi,
Official Ad-
ministrator to
Ajah F. Katah.

15th July,
1948

- continued.

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THIS INDENTURE is made the 15th day of July 1948 BETWEEN AHMED ALHADI of Number 19, Fifth Street in Freetown in the Colony of Sierra Leone Official Administrator of Estates (hereinafter called the Administrator) of the one part and HAJAH FATMATTAH KATAH of Number 8, Magazine Street in Freetown aforesaid widow according to Mohammedan law (hereinafter called the Purchaser) of the other part

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WHEREAS by an Indenture made the 26th day of August 1936 between John Edward Bright and Jabez Ashley Bright both therein described as of the first part and Mormodu Allie then of Martin Street in Freetown Butcher (hereinafter called the Testator) of the other part registered in Volume 130 of the Register of Conveyances kept in the Office of the Registrar-General for the Colony aforesaid for the consideration therein mentioned the town plot of land situate at East Street in Freetown aforesaid numbered 1145 in the Register and Plan of town lots of land for Freetown was one of the plots of land conveyed to the Testator for an unincumbered estate in fee simple in possession AND WHEREAS the Testator died on the 22nd day of January 1948 having duly made and executed his last Will dated the 30th day of August 1946 and the Codicil to the said Will dated the 19th day of July 1947 AND

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WHEREAS the Testator appointed the Purchaser and one ALHADI BARBER and one ALHADI ANTUMANI (hereinafter called the Beneficiary) the Executors and Trustees of his said Will and the Codicil thereto AND WHEREAS the Executors and Trustees appointed by the Will not having intermeddled in the estate of the Testator by a paper writing dated the 10th day of February 1948 renounced all right and title

Exhibits
 'E' (Contd.)
 Conveyance of
 Ahmed Alhadi,
 Official Ad-
 ministrator to
 Ajah F.Katah.
 15th July,
 1948
 - continued.

to probate and execution of the said Will and Codicil AND WHEREAS by an Order of a Judge of the Supreme Court of Sierra Leone the Administrator as Official Administrator of Estates was granted out of the Supreme Court aforesaid Letters of Administration with the said Will and Codicil annexed to the Estate of the Testator AND WHEREAS the freehold land situate in East Street aforesaid numbered 1145 in the Register and Plan of Town lots of land for Freetown and 50 by the Freetown City Council for Council's purposes was vested in the Testator at the time of his death for an estate in fee simple in possession free from incumbrances AND WHEREAS the Testator by his Will devised the said plot of land numbered 1145 in the Register and Plan of town lots of land for Freetown and 50 by the Freetown City Council as aforesaid to the Purchaser during her widowhood and thereafter to his executors and trustees upon trust for the Beneficiary absolutely AND WHEREAS by a Deed of Family Arrangement dated and approved of by the Supreme Court aforesaid on the 14th day of July 1948 and made between the Purchaser described as of the first part the Beneficiary as of the second part and the Administrator as of the third part it was agreed for the consideration therein mentioned amongst other things that the Purchaser should become seised of the said plot of land in East Street numbered 1145 in the Register and Plan of Town lots of land for Freetown and 50 by the Freetown City Council as aforesaid for an unincumbered estate in fee simple in possession irrespective of the devises made in relation to the said plot of land by the Testator by his said Will AND WHEREAS the Administrator at the request of the Purchaser has agreed to convey to her the said plot of land in East Street aforesaid numbered 1145 in the Register and Plan of Town lots of land for Freetown and 50 by the Freetown City Council as aforesaid NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the premises the Administrator as Administrator of the Estate of the Testator hereby conveys unto the Purchaser all that Plot or Parcel of Land situate and being in East Street in Freetown numbered 1145 in the Register and Plan of Town lots of land for Freetown and 50 by the Freetown City Council which is bounded on the North by land belonging to the Estate of the Testator Eighty feet more or less on the South by land known as Number 8, Kissy Street now or

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lately belonging to Admira Hebron Eighty feet more or less on the East by land formerly in the possession of J.G. Thomas but now in the possession of K.A. Basma Fifty eight feet more or less and on the West by East Street aforesaid Fifty eight feet more or less the same is delineated on the plan drawn and attached to these presents and thereon is edged round and coloured Red or howsoever otherwise the same may be known bounded or distinguished TO HOLD the same unto and to the use of the Purchaser in fee simple IN WITNESS whereof the Purchaser and Administrator have hereunto set their hands and seals the day and year first above written.

A. ALHADI (L.S.)

HAJAH FATMATTAH KATAH (L.S.)

Exhibits

'E' (Contd.)
Conveyance of
Ahmed Alhadi,
Official Administrator to
Ajah F. Katah.
15th July,
1948
- continued.

'E' (Contd.) - CONVEYANCE OF AHMED ALHADI, OFFICIAL ADMINISTRATOR TO HAJAH F. KATAH

THIS INDENTURE made the 12th day of July Nineteen hundred and forty-eight BETWEEN AHMED ALHADI Official Administrator of Sierra Leone (hereinafter called the Official Administrator) of the one part and HAJAH FATMATTAH KATAH of 8, Magazine Street Freetown Sierra Leone aforesaid widow of the other part WHEREAS Mormordu Allie late of 8, Magazine Street aforesaid (hereinafter called the Testator) duly made and executed his last Will and Testament dated the 30th day of August 1946 and a Codicil thereto dated the 19th day of July 1947 and by his said Will appointed his widow Hajah Fatmattah Katah and his sons Alhadi Barber and Alhadi Antumani (hereinafter called the Executors) Executors and Trustees thereof AND WHEREAS the Testator died on the 22nd day of January 1948 without having revoked his said Will and Codicil AND WHEREAS on the 10th day of February 1948 the Executors by writing under their hands renounced all their rights and title to the Probate and execution of the aforesaid Will and Codicil in favour of the Official Administrator AND WHEREAS Letters of Administration with the said Will and Codicil annexed were on the 10th day of March 1948 granted out of the Supreme Court of Sierra Leone to the Official Administrator AND WHEREAS the Testator prior to his death contracted with Daniel Mortunde

'E' (Contd.)
Conveyance of
Ahmed Alhadi,
Official Administrator to
Hajah F. Katah.
12th July, 1948.

Exhibits
 'E' (Contd.)
 Conveyance of
 Ahmed Alhadi,
 Official Ad-
 ministrator to
 Hajah F.Katah.
 12th July, 1948
 - continued.

Mason of 10 Peterson Street Freetown aforesaid for the purchase from him of the hereditaments intended to be hereby conveyed (hereinafter called the said hereditaments) for the price of Three thousand and five hundred pounds and thereof paid to the said Daniel Mortunde Mason the sum of Two thousand pounds part of the said purchase price AND WHEREAS the Official Administrator has paid to the said Daniel Mortunde Mason out of moneys forming part of the estate of the Testator the sum of One thousand five hundred pounds being the balance of the said purchase price AND WHEREAS by Indenture dated the 5th day of May 1948 the said Daniel Mortunde Mason for the consideration therein stated as beneficial owner granted and conveyed the said hereditaments unto the Official Administrator in fee simple AND WHEREAS the Testator by his said Will gave devised and bequeathed unto his wife the said Hajah Fatmattah Katah absolutely all the rest and residue of his real and personal estate and effects of whatsoever kind and wheresoever situated AND WHEREAS the said hereditaments now form part of the residuary estate of the Testator AND WHEREAS the Official Administrator has paid all the funeral testamentary and administration expenses and has paid or provided for payment of all the debts of the Testator which have come to his knowledge without having recourse to the sale of the said hereditaments AND WHEREAS the Official Administrator has at the request of the said Hajah Fatmattah Katah agreed to convey the said hereditaments to her NOW THIS INDENTURE WITNESSETH in consideration of the premises and for the purpose of giving effect to the said residuary devise the Official Administrator as Administrator hereby conveys unto the said Hajah Fatmattah Katah ALL THAT piece or parcel of land messuage and hereditaments with the buildings thereon which said lot was conveyed by a Deed of Conveyance dated the 28th day of January 1898 from Elizabeth Wilson to Daniel Pratt Mason situate in Kissy Road Freetown in the Colony aforesaid and numbered 2 for Municipal purposes and Bounded on the North by Kissy Road aforesaid Sixty nine feet and eight inches (69'8") more or less on the South by property now or lately in the possession or occupation of Mr. Crowther Fifty four feet (54') more or less on the East by property now or lately in the possession or occupation of S.D.Jarret Seventy one feet and two inches (71'2") more or less and

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on the West by property now or lately in the possession of the Sierra Leone Government Seventy feet and one inch (70'1") more or less as delineated on the plan drawn and attached to these presents and thereon edged Red or howsoever otherwise the same may be bounded known described or distinguished TO HAVE AND TO HOLD the same UNTO AND TO THE USE of the said Hajah Fatmattah Katah in fee simple IN WITNESS whereof the Official Administrator has hereunto set his hand and seal the day and year first above written

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A. ALHADI (I.S.)
Official Administrator.

Exhibits
'E' (Contd.)
Conveyance of
Ahmed Alhadi,
Official Administrator to
Hajah F. Katah.
12th July, 1948
- continued.

'H' - CONVEYANCE OF AJAH F. KATAH TO ALHADI ANTUMANI

THIS INDENTURE is made the 14th day of July, 1948 BETWEEN AJAH FATMATTAH KATAH of Number 8, Magazine Street in Freetown in the Colony of Sierra Leone widow of the first part ALHADI ANTUMANI of Number 8, Magazine Street aforesaid Minor of the second part and AHMED ALHADI of Number 19, Fifth Street in Freetown aforesaid Official Administrator of Estates (hereinafter called the Administrator) of the third part WHEREAS Mormordu Allie late of Number 8, Magazine Street in Freetown aforesaid (hereinafter called the Testator) duly executed his last Will dated the 30th day of August 1946 and a Codicil to the said Will dated the 19th day of July 1947 AND WHEREAS the Testator died on the 22nd day of January 1948 without having revoked his said Will and the Codicil thereto AND WHEREAS the parties of the first and second parts and one Alhadi Barber the Executors and Trustees appointed by the Will of the Testator on the 10th day of February 1948 renounced all right and title to probate and execution of the said Will and Codicil AND WHEREAS on the 10th day of March 1948 Letters of Administration of the said Will and Codicil annexed were granted by virtue of a Judge's Order to Ahmed Alhadi of the third part herein as Official Administrator of Estates AND WHEREAS the debts funeral and testamentary expenses of the Testator and the legacies payable under his Will have all been paid or provided for AND WHEREAS the Testator by his Will directed that his Trustees shall have full power generally of

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'H'.
Conveyance of
Ajah F. Katah
to Alhadi
Antumani.
14th July, 1948.

Exhibits

'H'

Conveyance of
Ajah F. Katah
to Alhadi
Antumani.

14th July, 1948
- continued.

determining all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts of his Will AND WHEREAS the Testator declared that any determination arrived at by his Trustees in relation to the trusts of his Will shall be binding on parties taking interests under his Will and that such determination shall not be objected to or questioned upon any ground whatsoever AND WHEREAS the Testator by his Will devised unto the said Ajah Fatmattah Katah during widowhood the hereditaments situate at Number 8, Magazine Street Number 23 East Street Number 2 Fourah Bay Road Numbers 2, 5 and 5A Kissy Road Number 20 Fisher Street Number 6, Magazine Cut all in Freetown aforesaid with remainder to his Trustees Upon Trust for his son the said Alhadi Antumani of the second part "his heirs and assigns in fee simple as tenants in common" AND WHEREAS by his Will the Testator further devised to the said Ajah Fatmattah of the first part for her use during widowhood the hereditaments situate at Numbers 46 and 50 East Street in Freetown aforesaid with remainder unto his Executors and Trustees Upon Trust for the use and benefit of the said Alhadi Antumani and any other child or children who is or are now or may be born to the Testator by the said Fatmattah Katah in equal shares as tenants in common AND WHEREAS the Testator devised by his Will to the said Ajah Fatmattah Katah absolutely the hereditaments situate at Number 9 Guard Street Numbers 17 and 17A Martin Street and Number 9 Main Road Granville Bay all in Freetown AND WHEREAS the Testator by his Will devised to the Executors and Trustees Upon Trust the hereditaments situate at Number 48 East Street and Number 9 Walpole Street both in Freetown for the said Alhadi Antumani his heirs and assigns as tenants in common AND WHEREAS the Testator devised and bequeathed to the said Ajah Fatmattah Katah absolutely the residue of his real and personal estate AND WHEREAS since the date of execution of the said Will there has been no child or children born to the Testator by the said Ajah Fatmattah Katah and there is now no possibility of issue by the said Ajah Fatmattah Katah to the Testator AND WHEREAS by an Indenture of Sale expressed to be made on the 21st day of September 1938 between Alfred Augustus Cole of the first part the Testator of the second part and the said Ajah Fatmattah Katah referred to as Ajah Fatmatta and Alhadi

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Antumani therein referred as Osman Fatmatta both being of the third part for the consideration in the said Indenture of Sale mentioned the unincumbered freehold estate in possession of the hereditaments situate at Numbers 5 and 5A Kissy Road referred to in the Indenture of Sale as Number 5, Kissy Road was conveyed to the parties of the third part as tenants in common AND WHEREAS the said Ajah Fatmattah Katah and Alhadi Antumani are now seised or otherwise well entitled to the unincumbered freehold estate of the hereditaments situate at Numbers 5 and 5A Kissy Road as tenants in common AND WHEREAS the said Ajah Fatmattah Katah is seised or otherwise well entitled to the unincumbered freehold estate in possession of the hereditaments situate at Number 16 Martin Street aforesaid AND WHEREAS the dwellinghouse situate at Number 9 Walpole Street aforesaid is in a dilapidated and dangerous state AND WHEREAS the Director of Public Works for the Colony has served upon the Testator on the 18th day of October 1947 a lawful notice requiring the Testator within two months from the date of the said notice to secure and repair the said dwellinghouse at Number 9 Walpole Street aforesaid which requirement the Testator up to the time of his death failed to execute AND WHEREAS by virtue of Section 15 of the Administration of Estates Ordinance 1945 the Administrator is now the Trustee of the Will of the Testator AND WHEREAS the said Ajah Fatmattah Katah is the mother of the said Alhadi Antumani AND WHEREAS the said Ajah Fatmattah Katah and the said Alhadi Antumani are desirous of entering into a Family Arrangement so that the said Alhadi Antumani will be provided with ready cash by the said Ajah Fatmattah Katah to secure his advancement in life and to enable the dwellinghouse at Number 9 Walpole Street aforesaid to be secured reconditioned repaired and restored to the satisfaction of the Director of Public Works of the Colony aforesaid AND WHEREAS the said Ajah Fatmattah Katah has agreed with said Alhadi Antumani with the consent of the Administrator to effect the Family Arrangement and to that end to vary the trusts of the Will of the Testator as they affect the said Alhadi Antumani so that the Trustee of the Will of the Testator shall stand seised of the unincumbered freehold estate of the hereditaments situate at Number 8 Magazine Street Numbers 17 and 17A Martin Street Number 9 Walpole Street the remainder expectant on the widowhood of the said Ajah Fatmattah

Exhibits

'H'

Conveyance of
Ajah F.Katah
to Alhadi
Antumani.

14th July, 1948
- continued.

Exhibits

'H'

Conveyance of
Ajah F. Katah
to Alhadi
Antumani.

14th July, 1948
- continued.

Katah of the unincumbered freehold estate at Number 20, Fisher Street all being in Freetown aforesaid together with the sum of £1,500 to promote the advancement of the said Alhadi Antumani and a sum not exceeding £1,000 to recondition secure and restore the dwellinghouse situate at Number 9 Walpole Street aforesaid both sums to be provided by the said Ajah Fatmattah Katah out of her own monies and that the said Ajah Fatmattah Katah stand seized of the unincumbered freehold estate of the hereditaments situate at numbers 23, 46, 48 and 50 East Street and Number 6 Magazine Cut all being in Freetown all other devises and bequests to the Trustees Upon Trust for the said Alhadi Antumani and to the said Ajah Fatmattah Katah in the said Will contained remaining unaffected AND WHEREAS by order of a Judge of the Supreme Court of Sierra Leone made on the 14th day of July 1948 approbation was given and had of the above recited terms of the Family Arrangement consented to by the Administrator AND WHEREAS the name of the said Alhadi Antumani has been inserted as a party hereto the intent that he may be bound by these presents NOW THIS INDENTURE WITNESSETH that in consideration of the premises and by way of Family Arrangement IT IS HEREBY AGREED AND DECLARED that FIRSTLY the Administrator as Trustee of the Will stand seized of the unincumbered fee simple estate in possession of the hereditaments situate at Numbers 17, 17A and 16 Martin Street aforesaid Number 8, Magazine Street Number 9 Walpole Street and of the sum of One thousand and five hundred pounds to be applied towards the advancement of the said Alhadi Antumani and of the sum not exceeding One thousand pounds to be used for securing restoring and reconditioning the dwellinghouse and other building situate at Number 9 Walpole Street aforesaid both sums being provided by the said Ajah Fatmattah Katah out of her own monies that SECONDLY the said Ajah Fatmattah Katah stand seized of the unincumbered freehold estate of the hereditaments situate at Numbers 23, 46, 48 and 50 East Street and Number 6, Magazine Cut freed and discharged from all estates in possession or remainder whatsoever created by the Will. It is further agreed and declared that all other bequests and devises unaffected by this Family Arrangement shall remain good and valid in law IN WITNESS whereof the said Ajah Fatmattah Katah and Ahmed Alhadi have hereunto set their hands and seals the day and year

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first above written.

Exhibits

SIGNED SEALED AND DELIVERED }
 by the above-named AJAH } HAJA FATMATTAH
 FATMATTAH KATAH in the } KATAH (L.S.)
 presence of :-

'H'
 Conveyance of
 Ajah F.Katah
 to Alhadi
 Antumani.

C.J.Kempson,
 26, Percival Street, Freetown.
 Barrister-at-Law.

14th July, 1948
 - continued.

10 Johnnie Elba,
 25, Pultney Street.
 Sub-Inspector of Police.

SIGNED SEALED AND DELIVERED }
 by the above-named AHMED } A. ALHADI (L.S.)
 ALHADI in the presence of:--

C.J.Kempson,
 26, Percival Street, Freetown.
 Barrister-at-Law.

20 Johnnie Elba,
 25, Pultney Street.
 Sub-Inspector of Police.

5/24788/48

THIS INSTRUMENT WAS PROVED BY THE
 TESTIMONY OF JOHNNIE ELBA WITHIN
 NAMED TO BE THE RESPECTIVE ACTS
 AND DEED OF HAJA F. KATA AND A.
 ALHADI BEFORE ME THIS 15th day of
 JULY, 1948 at 1.10 o'clock in the
 AFTERNOON.

30 (Sgd.) W.S.YOUNG,
 Deputy Registrar General for the
 Colony of Sierra Leone

Certified true copy,
 (Sgd.) W.S.YOUNG
 Deputy Registrar General.

Exhibits'K' - CONVEYANCE OF ALHADI ANTUMANI TO BOIE KAMARA

'K'

Conveyance of
Alhadi Antumani
to Boie Kamara.
18th September,
1954.

THIS INDENTURE made the 18th day of September in the year of Our Lord One thousand nine hundred and fifty-four BETWEEN ALHADI ANTUMANI of Freetown in the Colony of Sierra Leone (hereinafter called the Vendor) of the one part and BOIE KAMARA of Martin Street, Freetown in the aforesaid Colony (hereinafter called the Purchaser) of the other part AND WHEREAS on the 14th day of July 1948 by an Order of a Judge of the Supreme Court approbation was given to an Indenture by way of Family Agreement in which the parties were Ajah Fatmattah Katah of the first part Ahmed Alhadi of the third part and in which the name of Alhadi Antumani appeared to give effect to the said Indenture AND WHEREAS by the said Deed of Arrangement the Official Administrator as Trustee by a Deed of Conveyance dated the 14th day of September, 1954 and made between the Official Administrator of the one part and the Vendor of the other part the hereditaments and premises hereinafter described were conveyed by the said Official Administrator AND WHEREAS the Vendor now seised in fee simple in possession free from incumbrances of the hereditaments and premises intended to be hereby granted and conveyed and hereinafter more fully described AND WHEREAS the Vendor has agreed to sell to the Purchaser the said hereditaments and premises the fee simple thereof in possession free from incumbrances at the price of £700 (Seven hundred pounds) Sterling NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of £700 (SEVEN HUNDRED POUNDS) Sterling on or before the execution of these presents paid by the Purchaser to the Vendor (the receipt of which sum the Vendor hereby acknowledges) the Vendor as BENEFICIAL OWNER hereby conveys unto the Purchaser ALL THAT piece or parcel of land situate lying and being in Martin Street in Freetown aforesaid and bounded on the North by land now or lately in the possession or occupation of Babadie Kallay and Foday 52' (Fifty-two feet) on the East by land in the possession or occupation of Gilford Williams 67' (Sixty-seven feet) on the South by Martin Street aforesaid 45' (Forty-five feet) and on the West by land now or lately in the possession or occupation of A.H.Kamara 59' (Fifty-nine feet) and is delineated on the plan drawn and attached to these presents and thereon edged Red or distinguished Together with the buildings

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thereon erected and the appurtenances thereto be-
longing TO HOLD the same Unto and to the use of
the Purchaser in fee simple. IN WITNESS whereof
the Vendor hath hereunto set his hand and seal the
day and year first above written.

Exhibits

'R'

Conveyance of
Alhadi Antumani
to Boie Kamara.
18th September,
1954
- continued.

SIGNED SEALED AND DELIVERED)
by the within-named ALHADI)
ANTUMANI in the presence) A.A.ANTUMANI.
of :-)

10 J.P.Macaulay,
19, Henry Street, Freetown.

Banja Tejan-Sie,
Barrister-at-Law,
61, Westmoreland Street,
Freetown.

No.273/31399/54

20 THIS INSTRUMENT was proved by the Testimony of
Banja Tejan Sie within named to be the act and
deed of Alhadi Antumani before me this 25th day
of September, 1954 at 11.2 o'clock in the fore-
noon.

Z.C.L.Richards,
Acting Deputy Registrar General
for the Colony of Sierra Leone.

'L' - CONVEYANCE OF OFFICIAL ADMINISTRATOR TO
ALHADI ANTUMANI

'L'

30 THIS INDENTURE is made the 14th day of September,
1954 BETWEEN PERCY RICHMOND DAVIES of No. 9,
College Road, Freetown in the Colony of Sierra Le-
one Official Administrator of Estates in Sierra
Leone (hereinafter called the Trustee) of the one
part and ALHADI ANTUMANI of No.8 Magazine Cut Free-
town in the Colony aforesaid (Testator's son) of
the other part WHEREAS Mormordu Allie deceased
late of No.8, Magazine Street in Freetown afore-
said (hereinafter called the Testator) duly execu-
ted his last Will dated 30th day of August, 1946
and a Codicil to the last Will dated 19th day of
40 July, 1947 AND WHEREAS the Testator died on the
22nd day of January, 1948 without having revoked
his said Will and Codicil thereto AND WHEREAS
Ajah Fatmattah Katak also of No.8, Magazine Street

Conveyance of
Official
Administrator
to Alhadi
Antumani.
14th September,
1954.

Exhibits

'L'

Conveyance of
Official
Administrator
to Alhadi
Antumani.

14th September,
1954

-- continued.

Freetown aforesaid mother of the Testator's son hereinafter named and one Allie Barber Executors and Trustees appointed by the Will of the Testator on the 10th day of February, 1948 renounced all right and title to Probate and execution of the said Will and Codicil AND WHEREAS on the 10th day of March, 1948 Letters of Administration with the said Will and Codicil annexed were granted to the Official Administrator AND WHEREAS by virtue of Section 15 of the Administration of Estates Ordinance 1945 the Official Administrator duly became the Trustee of the Will AND WHEREAS the Testator by his Will devised unto the said Ajah Fatmattah Katah amongst other things the hereditaments situate at No.8 Magazine Street in Freetown aforesaid absolutely AND WHEREAS on the 14th day of July, 1948 by an Order of a Judge of the Supreme Court approbation was given to an Indenture by way of Family Arrangement in which the parties were Ajah Fatmattah Katah of the first part Ahmed Alhadi of the third part and in which the name of Alhadi Antumani appeared to give effect to the said Indenture AND WHEREAS it was intended that the said Will be varied in accordance with the terms contained in the said Indenture and was varied to the following effect That firstly the Administrator as Trustee of the Will stand seised of the unincumbered fee simple estate in possession of the hereditaments situate at Numbers 17, 17A and 16 Martin Street aforesaid Number 8 Magazine Street Number 9 Walpole Street and of the sum of One thousand and five hundred pounds to be applied towards the advancement of the said Testator's son and of a sum not exceeding One thousand pounds to be used for securing restoring and reconditioning the dwellinghouse and other buildings situate at Number 9 Walpole Street aforesaid both sums being provided by the said Ajah Fatmattah Katah out of her own monies that Secondly the said Ajah Fatmattah Katah stand seised of the unincumbered freehold estate of the hereditaments situate at Numbers 23, 46, 48 and 50 East Street and Number 6, Magazine Cut freed and discharged from all estates in possession or remainder whatsoever created by the Will That all other bequests and devises unaffected by the said Family Arrangement shall remain good in law AND WHEREAS the said Testator's son has now attained the age of Twenty-one years and above AND WHEREAS the said Trustee has arranged with the said Testator's son to convey

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to him the hereditaments herein described as No.8, Magazine Street aforesaid in part satisfaction of his share under the Indenture of Family Arrangement hereinbefore referred to NOW THIS INDENTURE WITNESSETH that in order to carry into effect the purpose of the said Indenture of Family Arrangement and in pursuance of the power contained therein, the said Official Administrator as Trustee hereby conveys unto the said Testator's son the hereditaments and premises described as No.8, Magazine Street aforesaid TO HOLD unto and to the use of the said Testator's son in fee simple IN WITNESS whereof the said Trustee hath hereunto set his hand and seal the day and year first above written

Exhibits

'L'

Conveyance of Official Administrator to Alhadi Antumani.

14th September, 1954

- continued.

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SIGNED SEALED AND DELIVERED) PERCY R. DAVIES,
 by the said PERCY RICHMOND) Official Administra-
 DAVIES in the presence of:-) tor, Sierra Leone.

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M.S.Hotobah-During,
 3rd Grade Clerk to O.A.
 14/9/54.

SCHEDULE

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ALL THAT piece plot or parcel of land Together with the buildings thereon erected situate lying and being at Magazine Street Freetown aforesaid and numbered 8 by the Municipal Council of Freetown aforesaid for the payment of rates and bounded on the North by land now or lately in the possession or occupation of J.E.King (Decd.) 67.5' (Sixty-seven point five feet on the South by property now or lately in the possession or occupation of Annie Lewis 72.7' (Seventy-two point seven feet) on the East by properties now or lately in the possession or occupation of M.Kallay and Boie Kamara 50.2' (Fifty point two feet) and on the West by Magazine Street aforesaid 66' (Sixty-six feet)

No.113/33222/56

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THIS INSTRUMENT was proved by the Testimony of Maurice Hotobah-During within named to be the act and deed of the Official Administrator before me this 6th day of April, 1956 at 1.15 o'clock in the afternoon.

I.P.Carlton Danner
 Acting Deputy Registrar General for
 the Colony of Sierra Leone.

Certified true copy
 I.P.Carlton Danner
 Acting Deputy Registrar General.

Exhibits

'M'

'M' -- CONVEYANCE OF ALHADI ANTUMANI TO
MUCHTARR KALLAY

Conveyance of
Alhadi
Antumani to
Muchtarr Kallay
5th April, 1956.

THIS INDENTURE made the 5th day of April in the year of Our Lord One thousand nine hundred and fifty-six BETWEEN ALHADI ANTUMANI of No.41 Regent Street Freetown in the Colony of Sierra Leone Private Gentleman (hereinafter called the Vendor) of the one part and MUCTAR KALLY of No.5 Elba Street Freetown in the Colony aforesaid Factor of Messrs. United Africa Company Limited Freetown (hereinafter called the Purchaser) of the other part WHEREAS by an Indenture bearing date the 14th day of September 1954, and expressed to be made between Percy Richmond Davies Official Administrator of Estates in the Colony of Sierra Leone aforesaid therein described of the one part and the Vendor herein therein also described as of the other part IT WAS WITNESSED that for the consideration therein mentioned the land and hereditaments intended to be hereby assured together with the buildings thereon erected was granted and conveyed to the Vendor herein in fee simple in possession free from incumbrances AND WHEREAS the Vendor now being seised in fee simple in possession free from incumbrances thereof has contracted and agreed with the Purchaser for the absolute sale to him of the same for a like estate for the price of £2,500 (Two thousand five hundred pounds) sterling NOW THIS INDENTURE WITNESSETH that in pursuance of the aforesaid Agreement and in consideration of the said sum of £2,500 (Two thousand five hundred pounds) Sterling paid to the Vendor by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor the said Alhadi Antumani alias Osman Allie) doth hereby acknowledge) He the Vendor as Beneficial Owner doth hereby grant and convey unto the Purchaser his heirs and assigns ALL THAT piece plot or parcel of land Together with buildings thereon erected situate lying and being at Magazine Street in Freetown aforesaid and Numbered 8 (Eight) by the Municipal Council in Freetown aforesaid for the payment of rates and as more fully described in the Schedule hereto referred and delineated in the plan drawn and attached to these presents and thereon edged Red or howsoever otherwise the same may be bounded known described or distinguished TO HAVE AND TO HOLD the same unto and to the use of the Purchaser his heirs and assigns forever in fee simple

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THE SCHEDULE HEREIN REFERRED TOExhibits

10 ALL THAT piece plot or parcel of land together with the buildings thereon erected situate lying and being at Magazine Street Freetown aforesaid and numbered 8 by the Municipal Council of Freetown aforesaid for the payment of rates and bounded on the North by land now or lately in the possession or occupation of Mr. J.E. King (Decd.) 67.5' (Sixty-seven point five feet) on the South by land now or lately in the possession or occupation of Annie Lewis 72.7' (Seventy-two point seven feet) on the East by lands now or lately in the possession or occupation of Mr. Kallay and Boie Kamara 50.2' (Fifty point two feet) and on the West by Magazine Street 66' (Sixty-six feet)

'M'
Conveyance of
Alhadi
Antumani to
Muchtarr Kallay
5th April, 1956
- continued.

IN WITNESS whereof the Vendor herein the said Alhadi Antumani alias Osman Allie hath hereunto set his hand and seal the day and year first above written.

20 SIGNED SEALED AND DELIVERED }
by the within-named the } O. ALLIE (L.S.)
said ALHADI ANTUMANI alias } Arabic.
OSMAN ALLIE in the presence }
of :-

M.S. Conteh,
39, Fourah Bay Road, Freetown.
Trader.

30 Fredk. Hanciles,
18, Oxford Street, Freetown.
Solicitor's Clerk.

5/4/56.

No. 116/33230/56

THIS INSTRUMENT was proved by the testimony of Frederick Hanciles within named to be the act and deed of Alhadi Antumani alias O. Allie before me this 9th day of April 1956 at 10.15 o'clock in the forenoon.

40 I.P. Carlton Danner
Acting Deputy Registrar General for
the Colony of Sierra Leone.

Certified true copy

I.P. Carlton Danner

Acting Deputy Registrar General.

ON APPEAL
FROM THE COURT OF APPEAL OF
SIERRA LEONE AND GAMBIA

B E T W E E N :-

IBRAHIM MOMORDU ALLIE (ADMINISTRATOR OF
THE ESTATE OF AIHAJI ANTUMANI ALLIE
(Deceased) (Plaintiff) Appellant

- and -

HAJAH FATMATTA KATAH (Defendant) Respondent

RECORD OF PROCEEDINGS

DARLEY CUMBERLAND & CO.,
36, John Street,
Bedford Row,
London, W.C.1.

Solicitors for the Appellant.

SEIFERT, SEDLEY & CO.,
14, Tooks Court,
Cursitor Street,
Chancery Lane,
London, E.C.4.

Solicitors for the Respondent.