

IN THE PRIVY COUNCIL

No. 14 of 1966

ON APPEAL FROM

THE SUPREME COURT OF CEYLON

B E T W E E N

PHILIP SEEVALI WIJEWARDENE

Appellant

- and -

1. GEORGE BENJAMIN SIRISENA GOMES
2. CYRIL ESMOND LUCIEN WICKREMESINGHE
3. RUBY ALICE GERTRUDE WIJEWARDENE
4. NALINI MERCIA WICKREMESINGHE
5. INDRA RANEE GOMES
6. KUSUMALILAMANI GOONERATNE
7. RANJIT SUJEVA WIJEWARDENE
8. DAVID ERNEST MAARTENSZ
9. GEORGE BENJAMIN SIRISENA GOMES  
(as a trustee of the Aggabodhi Trust)
10. CYRIL ESMOND LUCIEN WICKREMESINGHE  
(as a trustee of the Aggabodhi Trust)

Respondents

10 UNIVERSITY OF LONDON  
**INSTITUTE OF ADVANCED**  
 LEGAL STUDIES  
 15 MAR 1968  
 25 RUSSELL SQUARE  
 LONDON, W.C.1. 10.

20

CASE FOR THE APPELLANT

RECORD

1. The 2nd Respondent-Contestant-Appellant abovenamed (hereinafter called "the Appellant") appeals from the judgment and decree of the Supreme Court (Abeysondera J. and G.P.A. Silva J.) dated the 24th May 1963 whereby the said Court dismissed, without reasons, the Appellant's appeal from a part of the judgment and decree of the District Court dated the 30th May 1960, and, upon cross-objections filed by the Petitioners- Respondents- Respondents above-named (hereinafter called "the Executors"), varied, to the Appellant's detriment, the judgment and decree of the District on an issue which the District Court had decided in the Appellant's favour.
 

p.645 1.1 -  
p.646 1.18.  
p.610 1.12 -  
p.631 1.22.  
p.646 11.1-11.
2. The proceedings from which this appeal arises commenced in the District Court of Colombo

30

RECORD

p.145 1.18 - with an application made by the Executors of the  
 p.147 1.30. Estate of Don Richard Wijewardene, deceased under  
 Section 729 of the Civil Procedure Code (Cap.101  
 Vol.IV, Legislature Enactments 1956 Ed.) for the  
 judicial settlement of the accounts of their  
 administration up to the 31st December 1957 and  
 for directions in regard to the undistributed  
 assets of the Estate.

p.182 1.30 - 3. The Appellant, who is the eldest son of the 10  
 p.185 1.12. deceased and a legatee under his Last Will,  
 objected to the basis on which the Accounts had  
 been prepared and to the distribution of certain  
 assets of the Estate proposed by the Executors.  
 In the objections raised by the Appellant, he  
 contended, inter alia, that -

p.184 11.4- (a) the number of the Ordinary Shares in the  
 10. Associated Newspapers of Ceylon Limited to  
 which the Appellant was entitled was 1,711 and  
 not 1,461 because the trustees under the Deed  
 of Settlement dated 28th February 1950 20  
 (Exhibit P2) were not entitled to the 1,000  
 Ordinary Shares of the said Company under the  
 provisions of the said deed. The 1,000  
 Ordinary Shares accordingly remained a part  
 of the estate, and under the Will the Appellant  
 was entitled to a quarter share of them.

p.188 1.41 - (b) field No.1 of the Galpokuna Division  
 p.189 1.3. (devised in equal shares to the Appellant and  
 the 5th Respondent) was wrongly added to the 30  
 Udabaddawa Division which was devised to the  
 3rd Respondent-Respondent (the wife of the 2nd  
 Executor).

p.184 11.11- (c) the painting of the Assembly Hall on  
 15. Independence Day which was among the  
 collection of pictures to which the Appellant  
 was entitled under the Will had been wrongly  
 disposed of by the executors and that the  
 Appellant should receive from the executors a  
 sum of Rs. 12,500 by reason of their failure  
 to deliver up the picture to him. 40

p.183 11.19- (d) the true date of distribution as provided  
 40. by clause 15 of the Last Will is the 1st  
 January 1954 and that the income of the  
 properties to which the Appellant was entitled  
 under the Will should be credited to his  
 account as from that date.

UNIVERSITY OF LONDON  
 INSTITUTE OF ADVANCED  
 LEGAL STUDIES  
 15 MAR 1968  
 25 RUSSELL SQUARE  
 LONDON, W.C.1.

91334

RECORD

(e) the remuneration paid to the firm of Proctors acting for the executors was excessive and that the fees payable should be taxed in the ordinary way; and

p.184 11.16-20.

(f) the estate was debited with the cost of a passage from Canberra for a person who, though named in the Will as an executor, did not prove the Will, and, in the absence of evidence indicating the necessity to incur the expense, the item should be deleted.

p.184 11.25-28.

10

4. At the inquiry into the Objections, which commenced on the 9th March 1959, the following issues were accepted and, at the conclusion of the inquiry, were answered by the learned District Judge as follows:-

p.162 1.5-  
p.164 1.9  
p.630 1.18-  
p.631 1.7.

(1) (a) Is the true date for distribution the 1st of January 1954 or the 31st of December 1957, or any other date?

Ans. 31-12-57.

20

(1) (b) If the date for distribution is a date other than 31st December 1957, does the Final Account require amendment?

Ans. Does not arise.

(2) (a) Does the field No.1 described as Lot No.1 in P21 and expressed to contain the extent of 67 acres 1 rood and 23 perches, and the portions of land tinted in blue and yellow to the west of the said Lot 1 form part of Galpokuna Division or of Udabaddawa Division of Galpokuna Group?

30

Ans. Udabaddawa Division.

(2) (b) If the said field forms part of Galpokuna Division, should it form part of the corpus of Galpokuna Division to be divided between the contestant and Rani in terms of Clauses 15(1) and 15(3) respectively of the Last Will?

40

Ans. Does not arise.

RECORD

(3) (a) Are the settlement trustees entitled to the 250 remaining shares referred to in the note conjoined to Schedule 1 Part 1 of the Voluntary Final Account?

Ans. Yes.

(3) (b) If not, is the contestant entitled to 1,711 Ordinary Shares in the Associated Newspapers of Ceylon Limited.

Ans. Does not arise.

10

(4) (a) Was the painting of the Assembly Hall one of the paintings devised to the contestant in terms of Clause 7 of the Will?

Ans. Yes.

(4) (b) Was the said painting disposed of by the Executors?

Ans. Yes.

(4) (c) If so, is the contestant entitled to a sum equal to its value?

20

Ans. Yes.

(4) (d) If Issues 4(a), 4(b) and 4(c) are answered in the affirmative, to what sum is the contestant entitled?

Ans. Rs. 10,000/-.

(5) (a) Is the deduction of Rs. 59,370/17 referred to in para 7 of the contestant's statement contrary to the directions in the Will?

(b) If so, should that deduction be deleted?

30

(c) Should the Executors, in lieu of making deductions against the contestant and against other beneficiaries, have executed charges upon the property falling to each beneficiary for sums so deducted?

Ans. (a), (b) and (c). This issue was not pressed at the conclusion of the inquiry. Since cash was available it was conceded that it was unnecessary to create a charge.

(6) Are the legal fees and charges shown in the Voluntary Final Account and annual Balance Sheets excessive?

Ans. No.

10 (7) Is the Debit item referred to in paragraph 8 of the contestant's statement not properly chargeable to the estate?

Ans. The Item is a proper charge on the estate.

(8) Are the settlement trustees entitled to a thousand shares referred to as item 2 of the Schedule 2 of the deed of settlement under the terms thereof?

20 Ans. Yes.

(9) If Issue (8) is answered in the negative.

(a) is the contestant entitled to 250 of the said shares together with the bonus shares issued thereon?

(b) If so, should accounts be adjusted upon that footing?

Ans. Does not arise.

30 (10) Should the legal fees and charges referred to in Issue 6 be taxed by court and only such fees and charges as are allowed on taxation be properly included in the accounts?

Ans. No. Vide answer to Issue No. 6.

(11) If issue (8) is answered in the affirmative, are the Executors liable to pay the balance calls on the said shares?

Ans. No.

40 (12) Are the claims of the settlement trustees if any to the 250 shares referred to prescribed?

RECORD

Ans. No.

(13) Are the Executors liable to pay interest for any default in performance of their duties under the Will in terms of Section 23 of the Trust Ordinance?

Ans. Does not arise.

p.631 11.8-18. 5. Having answered the issues in the manner indicated above, the learned District Judge gave judgment against the Appellant's contentions (a), (b) and (d) set out in Paragraph 3 above and upheld the Appellant's contention in regard to the picture of the Assembly Hall on Independence Day and ordered the executors to give the Appellant credit in a sum of Rs.10,000/-. 10

p.622 11.21-26. 6. The learned District Judge held that the Deed of Settlement (P2) of the 28th February 1950 was "effective as a transfer of the rights of the settlor in the 1,000 shares and constitutes a valid declaration of trust in respect of those shares. Although the shares were not in existence at the date of P.2 when they were allotted in the name of the settlor or his executors, the title to them vested in the trustees. I hold, therefore, that the settlement trustees are entitled to demand a transfer of the 1,000 shares from the executors". 20

p.622 1.38 - p.623 1.22. The learned Judge put the matter alternatively in the following way. He held that the transfer of the 6,000 Ordinary Shares to the trustees by the Deed of Settlement of the 28th February 1950, prior to the Testator's application for the 1,396 shares (to which he was entitled to by reason of his holding 8,026 shares) was effectual to transfer also an entitlement to the appropriate proportion of the 1,396 shares. He concluded: 30

p.623 11.23-30. "In my opinion, the testator, when he made the application for shares by P31, must be deemed to have been a trustee of the Settlement Trustees in respect of 1,000 shares referred to in P2 which formed part of the entitlement of the Settlement Trustees qua owners of 6,000 shares and the executors are, therefore, bound to transfer the 1,000 shares 40

to the Settlement Trustees. P2 provides for the payment by the Settlement Trustees of all calls on partly paid shares and the Trustees are, therefore, liable to pay to the executors the balance call on the said shares."

10 7. The Appellant respectfully submits that the Deed of Settlement, upon a proper construction, did not pass any interest in the 1,000 shares to the trustees. This is not merely because the shares were future and unascertained property but because the operative part of the deed was in terms only a provision as to the trusts upon which such shares were to be held if and when the Testator transferred them or caused them to be allotted to the trustees. The Deed does not create a trust in respect of the items in the Schedule but only in respect of (a) such item appearing in the Schedule as can be shown to have been transferred or allotted simpliciter to the trustees and (b) such item of shares and invest-  
20 ments not appearing in the Schedule as can be shown to have been transferred to the trustees with an express direction that it is to be held upon the trusts of the settlement.

Accordingly no question arises of a trust which lacks formality or was not perfected, since by the terms of the Deed no trust was created.

30 The Testator did not transfer the shares or cause them to be allotted to the trustees. In fact, he caused them to be allotted to himself, thereby indicating that he had chosen, as by the Deed he was entitled to do, not to put them into the trust.

40 8. In the submission of the Appellant the principle that "Equity does not assist a Volunteer" is applicable to the Deed of Settlement, and the trustees accordingly had no enforceable right to have the 1,000 shares transferred to them. It is submitted that the learned District Judge was in error in excluding this principle and in applying the principles of Roman-Dutch law. In accordance with section 2 of the Trusts Ordinance (chapter 87), the question falls to be determined "by the principles of equity for the time being in force in the High Court of Justice in England".

RECORD

9. It is respectfully submitted that the view of the learned District Judge that the provisions of the Deed constituted an enforceable promise to allot or transfer the shares to the trustees and equally the view that there was a contractual obligation upon the Testator (and therefore his executors) so to do, cannot be supported. Any such construction must be based upon reading into the recitals an implied undertaking to transfer or cause to be allotted all the items in the Schedule. Such an implication is not necessary for the construction of the operative part of the Deed. In any event the provision referred to in the recitals is expressed to be "revocable". This, it is submitted negatives the implication of a binding promise or contract. A promise or undertaking which in its terms may be revoked at will is not a binding obligation. 10

10. It is further submitted that the first ground upon which the learned District Judge decided this question, namely that "although the shares were not in existence at the date of P2 [the Deed of Settlement] when they were allotted in the name of his settlor or his executors, the title to them vested in the trustees" is inconsistent with the position which appears to have been taken up by the executors that although the trustees were entitled to the 1,000 shares, they had to repay to the estate the amount due on allotment. Upon the Judge's reasoning, the title vested in the trustees only upon allotment, but the shares were allotted only upon the prior payment of the amount due by the testator or his executors. Hence paragraph 7(ii)(b) of the Deed of Settlement had no application. This paragraph, it is submitted, can in any event refer only to the payment to the Company of calls upon shares actually held by the trustees and indicates that the Deed applies only to and the trust arises only in relation to shares which have been actually transferred or allotted to the trustees. 30 40

11. As to the alternative basis upon which the learned District Judge found that the trustees were entitled to a transfer of the 1,000 shares, namely that the transfer to them of the 6,000 shares was effectual also to transfer an entitlement to a proportion of the 1,396 new shares, it

is respectfully submitted that this point, the determination of which raises issues of fact as well as of law, was not taken by the executors and it was therefore not open to the learned Judge to find on this ground. Further, the learned District Judge did not consider the extent to which the question of prescription, which was canvassed in a different context, would be affected by approaching the matter in this way. Here again issues of fact were involved. The trustees in their petition dated the 24th February 1959 did not put their claim in this way and it does not so appear in the issues.

12. In any event, it is submitted, the testator's application for the 1,396 new shares was made by him and accepted by the Company in his name prior to the registration of the trustees in the Register of the Company as the owners of the 6,000 shares. Accordingly, they had and could have had no entitlement, legal or equitable, in the new issue. Further, since this was a private Company in which no Ordinary Shares could be transferred except subject to the restrictions imposed by the Articles, it necessarily followed that the transfer to the trustees by the Testator of the 6,000 Ordinary Shares (which itself was subject to a due compliance thereafter with the Articles before it could become effective) could not carry with it automatically an entitlement to the transfer of other Ordinary Shares, that is to say any part of the new issue of 1,396 shares.

Even if the transfer of the 6,000 shares was capable of carrying with it any such automatic entitlement, the Testator was competent to deal separately with the 6,000 shares and the proportion of shares in the new issue to which the holders of the 6,000 shares would ordinarily be entitled. (This proportion was 1,043 shares). His intention so to do is manifest in the Deed of Settlement.

13. As to the 750 shares which the executors did transfer, the Appellant submits that they were not entitled so to do without a direction of the Court. The said 750 shares were part of the assets of the estate and were liable to estate duty and should have contributed to the income of the estate until the distribution.

RECORD

As to the 250 shares in respect of which the executors sought the direction of the Court, it is respectfully submitted that the trustees were not entitled to have these transferred to them and that any claim in respect of such shares and the bonus shares issued thereon made by the trustees was prescribed. Accordingly the learned District Judge should have held the Appellant entitled to the 250 shares and the bonus shares and directed that the account be amended accordingly.

10

14. The Appellant humbly submits that the learned District Judge's finding in regard to the extent of Udubaddawa Division is erroneous for the following reasons:

p.775 11.14-16.

(a) The words "all that divided portion known as Udubaddawa Division of Galpokuna Group" in clause 15(2) of the Will are vital in ascertaining the identity of the corpus dealt with under the sub-clause. Galpokuna Group was, at the time of the execution of the Will and for many years prior to that time, worked and managed for the Testator by Lanka Estates Agency Ltd., of which the Testator was a director. Throughout, fields Nos. 1-11 of Galpokuna Division were worked separately from field Nos. 1-3 of Udubaddawa Division. The accounts kept by the Agency Company showed field 11 of Galpokuna as part of Galpokuna. The Accounts for the years 1947-1954 were produced by the Appellant as Exhibit D35. The erroneous finding of the learned District Judge is partly due to his misreading this document.

20

30

pp.694-734.

p.616 11.9-11.

(b) Clause 15(1) of the Will refers to Galpokuna Division and Clause 15(2) refers to Udubaddawa Division. If one has to refer to a plan for identifying these bequests, the only place that is relevant is Plan P21 since this plan shows both Divisions. Udubaddawa Division is there indicated by the words Udubaddawa written in the body of the plan and the double bank of colour separating field 1 of Udubaddawa from field 1 of Galpokuna, and the double band separating field 3 of Udubaddawa from field No.10 of Galpokuna

40

p.692 B

(c) The learned District Judge has wrongly assumed that Plan P23D was prepared with the making of the Will in view.

p.615 ll.24-28.

(d) The learned Judge failed to consider the true effect of Plan P23D read with the evidence of the surveyor who made it, and of P22 read with the evidence of Proctor Abeywardena who prepared that document.

p.692 A  
p.180 l.10 -  
p.182 l.27  
p.691 l.22 -  
p.692 l.30  
p.165 l.29 -  
p.166 l.32.

10

(e) Clauses 15 and 21 of the Will clearly identify the subject matter of each bequest and it was not open to the learned Judge to attempt to ascertain the testator's intention on the presumption that the Testator showed a desire to effect an equal distribution. In any event, there was insufficient evidence before the Court of inter vivos donations by way of dowry or otherwise to enable it reasonably to decide the question on such a presumption.

20

15. In regard to the picture of the Assembly Hall on Independence Day, both Courts below having found that the picture formed part of the Testator's estate, the only question before the Board is the value of the picture. It is respectfully submitted that the variation by the Supreme Court of the finding of the trial judge on this point was not justified because -

30

(a) According to Atukorale, a witness called by the executors, he was trying to sell the picture at Rs.10,000/- on instructions from the painter.

p.177 ll.21-27.

(b) The wrongful disposal of the picture by the executors prevented the Appellant from obtaining a valuation before the inquiry commenced. In these circumstances it would be inequitable and in prejudice of the Appellant's rights to fix the value of the picture at any lesser sum than Rs.10,000/-.

40

(c) When the Appellant's Counsel informed the Court that the figure mentioned by the Executors' witness was acceptable, the executors did not indicate in any way that they disagreed. The concluding address of their counsel was calculated to give the

RECORD

p.609 11.19-  
23.

impression that the figure was not contested. He said: "The uncontradicted evidence in the case is to the effect that the Testator did not purchase the Assembly Hall painting and it does not therefore come within the clause of the Will. The value of it was accepted as Rs.10,000/-. What was the use of keeping it back from the Contestant if it really came under the clause of the Will". This clearly indicated that if a sum of money was to be paid in lieu of delivery, the executors did not dispute that the sum to be awarded was Rs.10,000/-. Furthermore, in the cross-objections, the executors did not complain of the value placed on the picture by the trial Judge.

10

(d) The Supreme Court misdirected itself in taking the view that figure for which the Testator insured the picture was its true value.

20

16. In regard to the Appellant's contention that the distribution of the Estate to the Beneficiaries could have been effected at the latest by the 31st March, 1954, the Appellant has shown that all the Trusts and obligations created by Clause 14 of the Last Will could have been performed and/or sufficient Assets to satisfy all such obligations could have been set apart with the money in the hands of the Executors as on 31st March, 1954. The Learned District Judge has failed to direct his attention to the evidence in chief and in cross-examination of the Executor, Mr. Gomes, which clearly indicated that the Estate could have been distributed at the latest on 31st March, 1954, with perfect propriety and prudence and that in fact, at various times, substantial overpayments had been made by the Executors by way of Estate Duty.

30

pp.369-379.

p.627 1.37 -  
p.628 1.49.

The Learned District Judge held that the notice of assessment of Estate Duty P5 dated 31st March, 1951 is not a notice under Section 32 of the Estate Duty Ordinance, from which an Appeal under Section 34 lay. It is respectfully submitted that the Learned District Judge has been influenced in his view by what is described in the Judgment as "The practice in all Courts to accept the 'provisional certificate' and to issue

40

10 letters of Probate to the Applicant. The final assessment is made after the necessary investigations have been completed and if no additional Duty is payable the Commissioner confirms the provisional assessment as the final assessment and issues a Final Certificate." It is respectfully submitted that the practice adopted by the Courts in relation to the issue by the Commissioner of Estate Duty of a notice of Assessment described as 'Provisional Assessment' cannot affect the construction of Sections 32, 33 and 34 of the Estate Duty Ordinance.

20 It is submitted that the rule in Bernard versus Montague (1816) 3 Merryvale - page 432 and Astley versus the Earl of Essex 6 Chancery Appeals (1870 - 1871) Page 898, was applicable and that on a proper and prudent exercise of the discretion of the Executors in the performance of their obligations, under Clause 14(1) to 14(4) of the Last Will, the distribution of the Assets of the Estate might have been done on 31st March, 1954, and therefore must be deemed to have been done on that date.

17. It is respectfully submitted that the Learned District Judge was wrong in holding that the fees paid to Messrs. F. J. & G. de Saram were proper disbursements made by the executors.

30 The Learned District Judge should not have allowed as legal fees to Messrs. F.J. & G. de Saram more than could be legally taxed or could be legally chargeable by them and should not have allowed as notarial charges to them more than what is provided for in the Notaries Ordinance. It is further submitted that in any event the Executors have failed to prove the nature of the work done to justify the large payments made as legal fees and charges.

40 The provision in the Will to which the learned Judge referred in this connection is not relevant to the question.

18. The sum of Rs. 4,516/23 debited to the estate as the cost of a return air passage from Canberra to Colombo of and as expenses in Colombo of Mr. J. A. Martensz paid to Mr. J. A. Martensz should, it is submitted, have been

RECORD

disallowed. Mr. Martensz did not take out probate as Executor and in any event it has not been proved that his presence in Ceylon was essential or necessary for any work connected with the estate.

19. It is respectfully submitted that this appeal should be allowed, with costs throughout, for the following among other

R E A S O N S

1. BECAUSE the Deed of Settlement (P2) did not pass any interest in the 1,000 shares in dispute to the Settlement Trustees and did not constitute a valid declaration of trust in respect thereof. 10
2. BECAUSE the Testator did not cause the said shares to be allotted to the Settlement Trustees but on the contrary caused them to be allotted to himself.
3. BECAUSE there was never any obligation upon the Testator to transfer the said shares to the Settlement Trustees or any limitation upon his freedom to deal with them as he chose. 20
4. BECAUSE the Settlement Trustees never had and were never entitled to have the said shares transferred to them, and in any event their claim is prescribed.
5. BECAUSE it was not open to the learned District Judge to find the Settlement Trustees to be entitled to a transfer of the 1,000 shares on his alternative ground which was neither pleaded nor raised in any issue. 30
6. BECAUSE so far as the 750 shares which the executors did transfer to the Settlement Trustees prior to these proceedings are concerned, they were not entitled so to do without an express direction of the Court.
7. BECAUSE so far as the remaining 250 shares are concerned, any claim by the Settlement Trustees in respect of such shares and the bonus shares issued thereon was prescribed. 40

8. BECAUSE on the evidence before him the learned District Judge should have held that Field No.1 of Galpokuna Estate was part of Galpokuna Division of Galpokuna Group devised under Clause 16(1)(b) and 15(3)(b) of the Will.
- 10 9. BECAUSE the evidence showed that Field No.1 of Galpokuna Estate was not part of the Udubaddawa Division of Galpokuna Group devised under Clause 15(2) of the Will and the Provisions of the Will should be construed so as to be consistent one with the other.
10. BECAUSE Plan P21 is the relevant plan depicting and identifying the land comprised in the Galpokuna Division and the Udubaddawa Division and shows that Field No.1 of Galpokuna Estate is part of the Galpokuna Division.
- 20 11. BECAUSE the learned District Judge's valuation of the picture of the Assembly Hall on Independence Day was justified upon the evidence and should not have been varied by the Supreme Court.
12. BECAUSE the learned District Judge's valuation of the said picture was not in issue in the Appeal before the Supreme Court.
- 30 13. BECAUSE the learned District Judge was wrong in rejecting the Appellant's contention that distribution could have been effected at the latest by the 31st March 1954 and in fixing the date for distribution as the 31st December 1957.
14. BECAUSE the learned District Judge erred in allowing the legal and notarial fees as they appear in the voluntary Final Account and the annual Balance Sheets to be debited to the estate.
- 40 15. BECAUSE the learned District Judge erred in permitting the sum of Rs. 4,516/23 to be debited to the estate as the cost of a return air passage from Canberra to Colombo and expenses in Colombo of Mr. J. A. Martensz.

E. F. N. GRATIAEN

WALTER JAYAWARDENA

MONTAGUE SOLOMON

No. 14 of 1966  
IN THE PRIVY COUNCIL  
ON APPEAL FROM  
THE SUPREME COURT OF CEYLON

B E T W E E N

PHILIP SEEVALI WIJEWARDENE

Appellant

- and -

1. GEORGE BENJAMIN SIRISENA GOMES
2. CYRIL ESMOND LUCIEN WICKREMESINGHE
3. RUBY ALICE GERTRUDE WIJEWARDENE
4. NALINI MERCIA WICKREMESINGHE
5. INDRA RANEE GOMES
6. KUSUMA LILAMANI GOONERATNE
7. RANJIT SUJEVA WIJEWARDENE
8. DAVID ERNEST MAARTENSZ
9. GEORGE BENJAMIN SIRISENA GOMES  
(as a trustee of the Aggabodhi  
Trust)
10. CYRIL ESMOND LUCIEN WICKREMESINGHE  
(as a trustee of the Aggabodhi  
Trust)

Respondents

---

CASE FOR THE APPELLANT

---

FISHER DOWSON & WASBROUGH,  
7, St. James's Place,  
London, S.W.1.