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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No.21 of 1971

ON APPEAL FROM

THE FEDERAL COURT OF MALAYSIA
HOLDEN AT KUALA LUMPUR
(APPELLATE JURISDICTION)

B E T W E E N :

1. SIEW SOON WAH alias SIEW POOI
YOONG (as trustee)
2. SIEW SOON WAH alias POOI YOONG and
3. SIOW POOI YUEN alias SIEW POOI YUEN
Appellants
(Plaintiffs)

- and -

YONG TONG HONG (sued as a firm)
Respondent
(Defendant)

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

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
28 MAY 1974
25 RUSSELL SQUARE
LONDON W.C.1

BULCRAIG & DAVIS,
6 Henrietta Street,
Strand,
London, WC2E 8QS
Solicitors for the Appellants.

STEPHENSON HARWOOD & TATHAM,
Saddlers' Hall,
Gutter Lane, Cheapside,
London, EC2V 6BS
Solicitors for the Respondent.

(i.)

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No.21 of 1971

ON APPEAL FROM THE FEDERAL COURT OF MALAYSIA
HOLDEN AT KUALA LUMPUR

(APPELLATE JURISDICTION)

B E T W E E N : 1. SIEW SOON WAH alias SIEW POOI
YOONG (as trustee)
2. SIEW SOON WAH alias SIEW POOI
YOONG and
3. SIEW POOI YUEN alias SIEW
POOI YUEN Appellants
(Plaintiffs)

- and -

YONG TONG HONG
(sued as a firm) Respondent
(Defendant)

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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

B E T W E E N :

- 1. SIEW SOON WAH alias SIEW POOI YOONG (as trustee)
- 2. SIEW SOON WAH alias SIEW POOI YOONG and
- 10 3. SIOW POOI YUEN alias SIEW POOI YUEN

Appellants
(Plaintiffs)

- and -

YONG TONG HONG (sued as a firm) Respondent
(Defendant)

RECORD OF PROCEEDINGS

NO. 1

SPECIALLY INDORSED WRIT OF SUMMONS

20 IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Civil Suit No.1506 of 1967

- B E T W E E N :
- 1. SIEW SOON WAH @ SIEW POOI YOONG as trustee
 - 2. SIEW SOON WAH @ SIEW POOI YOONG and
 - 3. SIOW POOI YUEN @ SIEW POOI YUEN all of No.61 Jalan Pasar Bharu, Pudu, Kuala Lumpur

Plaintiff

- and -

YONG TONG HONG, No.61 Jalan Pasar Bharu, Pudu, Kuala Lumpur (sued as a firm) Defendant

30

In the High Court of Malaya

No.1

Specially indorsed Writ of Summons

26th October 1967

SPECIALLY INDORSED WRIT

The Honourable Dato Azmi bin Haji Mohamed, P.S.B. P.J.K., P.M.N., Chief Justice of the High Court,

In the
High Court
of Malaya

Malaya, in the name and on behalf of His Majesty the
Yang di-Pertuan Agong.

To: Yong Tong Hong, No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur (sued as a firm)

No.1

Specially
indorsed Writ
of Summons

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 appearance
to be entered for you in an action at the suit of
Siew Soon Wah @ Siew Pooi Yoong as trustee, Siew
Soon Wah @ Siew Pooi Yoong and Siew Pooi Yuen @
Siew Pooi Yuen.

26th October
1967
(continued)

10

AND TAKE NOTICE that in default of your so
doing the Plaintiffs may proceed therein and
Judgment may be given in your absence.

WITNESS Marina Yusoff, Senior Assistant Registrar
of the High Court, Malaya this 26th day of October,
1967.

Sd: K.L. Devaser
Plaintiffs' Solicitors

Sd: Y. Marina
Senior Assistant
Registrar, High Court,
Kuala Lumpur

20

N.B.: This Writ is to be served within twelve
months from the date hereof, or, if renewed, within
six months from the date of 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
Registry of the High Court at Kuala Lumpur.

A Defendant appearing personally may, if he
desires, enter his appearance by post, and the
appropriate forms may be obtained by sending a Postal
for \$3.00 with an addressed envelope to the Registrar
of the High Court at Kuala Lumpur.

30

If the Defendant enters an appearance he must also
deliver a defence within fourteen days from the last
day of the time limited for appearance, unless such
time is extended by the Court or a Judge, otherwise
judgment may be entered against him without notice,
unless he has in the meantime been served with a
summons for judgment.

40

STATEMENT OF CLAIM

In the
High Court
of Malaya

—
No.1

Specially
indorsed Writ
of Summons

26th October
1967
(continued)

1. The Plaintiffs are the registered proprietors of the land comprised in Certificate of Title No.17562 in the Town and District of Kuala Lumpur and the house thereon known as No.61 Jalan Pasar Bharu, Kuala Lumpur (hereinafter called the said premises). The first Plaintiff sues as a trustee.
2. The Defendant is a firm and is sued as such.
3. The Defendant is a tenant of the ground floor of the said premises paying therefore a monthly rental of \$200/-.
4. As the said premises were built in or about the year 1958, it is not subject to the Control of Rent Ordinance, 1966.
5. By a notice to quit dated 11.10.1966 and served on the Defendant on or about 17.10.1966 the Defendant's tenancy was duly terminated. The Defendant was to vacate the said premises on 30.11.1966 or to accept a fresh tenancy at a monthly rental of \$300/-.
6. The Defendant has not vacated the said premises nor has it accepted the offer of the fresh tenancy as aforesaid. The Defendant continues to occupy the said premises as a trespasser.
7. Under the Civil Law Ordinance the Plaintiffs elect to charge the Defendant double rental amounting to \$400/- with effect from 1.12.1966 until vacant possession.
8. The Defendant has paid rental at the rate of \$200/- per month up to 30.9.1967. It was accepted without prejudice. A sum of \$2,000.00 is due from the Defendant towards double rental from 1.12.1966 till 30.9.1967.

The Plaintiffs pray for an order that the Defendant do:

- (i) forthwith vacate the said premises No.61 Jalan Pasar Bharu, Kuala Lumpur;
- (ii) pay the sum of \$2,000/- due to the plaintiffs to account of double rental from 1.12.1966 till 30.9.1967;

In the High Court of Malaya

No.1

Specially indorsed Writ of Summons

26th October 1967 (continued)

(iii) pay double rental at the rate of \$400/- a month with effect from 1.10.1967 until vacant possession;

(iv) pay costs of the suit.

Dated this 25th day of October, 1967.

Sd: Sd: Sd: K.L. Devaser & Co.

Plaintiffs' Signature Plaintiffs' Solicitors

And the sum of \$45/- (or such sum as may be allowed on taxation) for costs, and also, in case the Plaintiffs obtain an order for substituted service, the further sum of \$250.00 (or such sum as may be allowed on taxation). If the amount claimed be paid to the Plaintiffs or their Advocates and Solicitors or agent within four days from the service hereof, further proceedings will be stayed. 10

Provided that if it appears from the indorsement of the Writ that the Plaintiffs are resident outside the schedule territories as defined in the Exchange Control Ordinance, 1953, or is acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed is paid into Court within the said time and notice of such payment in is given to the Plaintiffs, their Advocates and Solicitors or agents. 20

This Writ was issued by Messrs. K.L. Devaser and Company, Advocates and Solicitors whose address for service is Room 203, Second Floor, Asia Insurance Building, Klyne Street, Kuala Lumpur, Solicitors for the Plaintiffs who reside at No.61 Jalan Pasar Bharu, Pudu, Kuala Lumpur. 30

This writ was served by me at on the Defendant on the day of 1967 at the hour of

(Indorsed) this day of 1967. (Signed) (Address)

NO.2WRITTEN STATEMENT OF DEFENDANT'S
DEFENCE AND COUNTERCLAIMIn the
High Court
of MalayaIN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

No.2

Civil Suit No.1506 of 1967Written
Statement of
Defendant's
Defence and
Counterclaim

B E T W E E N : 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
Plaintiffs

14th November
1967

10

- and -

YONG TONG HONG, No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
(sued as a firm) Defendant

WRITTEN STATEMENT OF DEFENDANT

20 1. The Defendant admits paragraph 1 of the Statement
of Claim. The Defendant contends that the Plaintiffs
are the sons of the former proprietor Siew Kim Chong
and that the land and building was transferred to them
by the said Siew Kim Chong in or about the month of
September or October 1967.

2. The Defendant admits paragraphs 2, 3 and 4 of the
Statement of Claim.

30 3. With reference to paragraph 5 of the Statement of
Claim the Defendant denies that any notice to quit
dated the 11th October 1966 was served on it on the 17th
October 1966 or any other date and denies that any
notice to quit was served on the 17th October 1966. The
Defendant did receive a notice to quit dated the 4th
October 1966 prior to the 17th October 1966. The
Defendant denies that its tenancy was duly terminated
by the said notice for reasons hereinafter set out.

4. With reference to paragraph 6 of the Statement of
Claim the Defendant denies that it is a trespasser.

40 5. With reference to paragraph 7 of the Statement of
Claim the Defendant denies the Plaintiffs are entitled
to double rent.

In the
High Court
of Malaya

—
No.2

Written
Statement of
Defendant's
Defence and
Counterclaim

6. With reference to paragraph 8 of the Statement of Claim the Defendant contends that it is and at all times has been willing to pay rent at the rate of \$200/- per month and contends that rent at the said rate continues and will continue to be tendered every month. The Defendant contends it is not liable to pay rent of any greater amount and denies the Plaintiffs are entitled to double rent and that any sum is owing to the Plaintiffs as double rent.

COUNTERCLAIM

10

And by way of Counterclaim the Defendant states
14th November as follows:-

1967
(continued)

7. The premises the subject matter of the action were formerly registered in the name of the father of the Plaintiffs namely Siew Kim Chong. On or about the 1st day of June 1964 the said Siew Kim Chong and the Defendant entered into an agreement in writing the material terms of which were:-

- (a) The Defendant paid to the said Siew Kim Chong a sum of \$8,000/-;
- (b) In consideration of that payment the said Siew Kim Chong rented to the Defendant the whole of the ground floor of the premises;
- (c) The duration of the tenancy was expressed to be for so long as the Defendant wished to occupy;
- (d) The monthly rent was fixed at \$200/- per month and the said Siew Kim Chong undertook not to increase it unless an increase was made in assessment.

20

8. The Defendant has at no time indicated to the said Siew Kim Chong that it did not wish to continue in occupation.

30

9. There has been no increase in assessment since the date of the said agreement.

10. On or about the 4th October 1966 the said Siew Kim Chong wrongfully and in breach of the said agreement purported to terminate the Defendant's tenancy on the 30th November 1966 and offered to the Defendant a new tenancy at a monthly rental of \$300/- per month with effect from the 1st December 1966. The Defendant refused to accept the offer of a new tenancy and

40

called upon the said Siew Kim Chong to perform and abide by the agreement referred to in paragraph 7 hereof.

In the
High Court
of Malaya

—
No.2

Written
Statement of
Defendant's
Defence and
Counterclaim

14th November
1967
(continued)

10 11. On the 30th December, 1966, 25th January 1967 and 4th April 1967 the said Siew Kim Chong acting through three different Solicitors denied having executed the said agreement and maintained his signature to it was a forgery. On the 22nd June 1967 the said agreement was by consent of the Defendant and the said Siew Kim Chong submitted to the Document Examiner at the Department of Chemistry along with other documents admittedly executed by the said Siew Kim Chong for the purpose of determining whether the said Siew Kim Chong's signature was forged.

20 12. The report of the Document Examiner has not been disclosed to the Defendant but on or about the 19th day of September 1967 the said Siew Kim Chong purported to transfer the premises to the Plaintiffs. The Defendant contends that the said transfer was carried out by the said Siew Kim Chong and the Plaintiffs acting in collusion with the intention of depriving the Defendant of its rights under the said agreement and that the said transfer is, as regards the rights of the Defendant fraudulent.

30 13. The Defendant contends that it was at all times entitled to have the said agreement specifically performed by the said Siew Kim Chong and that it is entitled to have the said agreement specifically performed by the Plaintiffs.

14. The Defendant contends that in terms of the said agreement it is entitled to continue in occupation of the ground floor of the said premises for so long as it wishes at a monthly rent of \$200/- which can only be increased by the amount of any increase in assessment attributable to the said ground floor.

The Defendant accordingly prays:-

- 40 (a) Specific performance of the agreement dated the 1st day of June 1964 made between the Defendant of the one part and Siew Kim Chong of the other part;
- (b) An order restraining the Plaintiffs from acting in breach of the terms of the said agreement;

In the High Court of Malaya

No.2

- (c) In the alternatige damages for breach of the said agreement;
- (d) Costs;
- (e) Such further or other relief as the Court may deem just and proper.

Written Statement of Defendant's Defence and Counterclaim

Dated this 14th day of November, 1967.

Sd: Skrine & Co.
Defendant's Solicitors

14th November 1967
(continued)

This Statement of Defence and Counterclaim is filed by Messrs. Skrine & Co., Straits Trading Building, No.4 Leboh Pasar Besar, Kuala Lumpur, Solicitors for the Defendant abovenamed.

10

No.3

NO. 3

Reply and Defence to Counterclaim

REPLY AND DEFENCE TO COUNTERCLAIM

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

22nd November 1967 Civil Suit No.1506 of 1967

- B E T W E E N :
- 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
 - 2. SIEW SOON WAH @ SIEW POOI
YOONG and
 - 3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
Plaintiffs

20

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant

REPLY AND DEFENCE TO COUNTERCLAIM

30

- 1. The Plaintiffs join issue with the Defendant on his defence save as admitted herein.
- 2. Paragraph 1 of the defence is admitted.

3. With regard to paragraph 3 the Plaintiffs state that the notice to quit referred to in paragraph 5 of the Statement of Claim and served on the Defendant on or about 17.10.1967 was dated 4.10.1967. The date mentioned in the Statement of Claim is a typewriting error. It is contended that the Defendant's tenancy has been duly terminated.

In the
High Court
in Malaya

—
No.3

4. Paragraphs 4, 5 and 6 are denied. In any event allegations therein are matters of law.

Reply and
Defence to
Counterclaim

10 5. Except as admitted herein each and every allegation in the Statement of Defence is denied as if same were pleaded herein seriatim.

22nd November
1967
(continued)

DEFENCE TO COUNTERCLAIM

As to Counterclaim the Plaintiffs state as follows:-

6. Paragraph 7 is denied except that the said premises were formerly registered in the name of their father Siew Kim Chong and that the rate of rent before the said Notice to quit was served on the Defendant was \$200/-.

20 It is denied that on 1.6.1964 the said Siew Kim Chong entered into any written agreement with the Defendant in the terms as stated or otherwise. It is specifically denied that the said Siew Kim Chong received a sum of \$8,000/- on 1.6.1964 from the Defendant.

7. Paragraphs 8 and 9 are admitted.

8. Paragraph 10 is denied except that the said notice dated 4.10.1966 (sic) was served on the Defendant and that the Defendant refused to accept the offer of a new tenancy.

30 9. Paragraph 11 is admitted. The Plaintiffs contend that it is for the Defendant to prove the alleged agreement of tenancy relied upon him.

10. Paragraph 12 is denied except that the said premises were transferred to the Plaintiffs on or about 19.9.1967. There is no report made by the document examiner or received by the Plaintiffs or their father.

40 11. Paragraphs 13 and 14 are denied. The said written agreement alleged to have been made between the Defendant and the Plaintiffs' father Siew Kim Chong on 1.6.1964, the execution of which by the Plaintiffs'

In the
High Court
of Malaya

No.3

Reply and
Defence to
Counterclaim

22nd November
1967
(continued)

father is denied, is void in law and constitutes no defence to the Plaintiffs' claim herein.

12. The Plaintiffs contend that the Defendant is not entitled to any of the prayers in the Counterclaim.

13. Except as admitted herein each and every allegation in the Counterclaim is denied as if same were pleaded herein seriatim.

Wherefore the Plaintiffs pray that the Counterclaim be dismissed with costs.

Dated this 22nd day of November, 1967.

Sgd: K.L. Devaser & Co.
Solicitors for the Plaintiffs

This Reply and Defence to Counterclaim was delivered this 23rd day of November, 1967 by Messrs. K.L. Devaser and Company, Advocates and Solicitors of Room 203, Second Floor, Asia Insurance Building, Klyne Street, Kuala Lumpur.

10

No.4

NO.4

Further and
Better
Particulars
of Defence
and
Counterclaim

FURTHER AND BETTER PARTICULARS
OF DEFENCE AND COUNTERCLAIM

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR
Civil Suit No.1506 of 1967

27th December
1967

B E T W E E N : 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW. POOI
YOONG and
3. SIEW POOI YUEN @ SIOW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur 30
Plaintiffs

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant

FURTHER AND BETTER PARTICULARS
OF DEFENCE AND COUNTERCLAIM

In the
High Court
of Malaya

No.4

Under Paragraph 7: The agreement in writing was not registered as a lease under the Land Code Cap.138 nor was it registered as an agreement of tenancy under the National Land Code.

Under Paragraph 7 (a): The sum of \$8,000/- was paid as to \$500/- in cash and as to \$7,500/- by three cheques particulars whereof are as follows:-

Further and
Better
Particulars
of Defence
and
Counterclaim

27th December
1967
(continued)

- 10 (a) United Commercial Bank Cheque No.KF.020911 for \$2,000/- dated the 4th February, 1958 drawn by Hong Tai and Company in favour of Yong Tong Lee Hong Kee and delivered by the said Yong Tong Lee Hong Kee to Siew Kim Chong who negotiated it with Yong Ching.
- 20 (b) United Commercial Bank cheque No.KF.020912 for \$2,000/- dated the 10th February 1958 drawn by Hong Tai & Company in favour of Yong Tong Lee Hong Kee and delivered by the said Yong Tong Lee Hong Kee to Siew Kim Chong who negotiated it with Yong Ching.
- (c) Eastern Bank Limited cheque No.618650 for \$3,500/- dated the 12th February 1958 drawn by Hong Tai & Company in favour of Yong Tong Lee Hong Kee and delivered by the said Yong Tong Lee Hong Kee to Siew Kim Chong.

Dated this 27th day of December, 1967.

Sd: Skrine & Co.

Defendant's Solicitors

- 30 This Further and Better Particulars of Defence and Counterclaim was filed by Messrs. Skrine & Co., No.4 Leboh Pasar Besar, Kuala Lumpur, Solicitors for the Defendant abovenamed.

In the
High Court
of Malaya

NO. 5

JUDGE'S NOTES OF EVIDENCE
AND PROCEEDINGS

No.5

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Judge's Notes
of Evidence
and
Proceedings

Civil Suit No.1506 of 1967

In Open Court

27th February '70

27th February
1967

Before Raja Azlan Shah, J.

NOTES OF EVIDENCE

K.L. Devaser for Plaintiffs.
Peter Mooney for Defendant.

10

Agreed Bundle - AB

Plaintiffs
Evidence

P.W.1 : Siew Soon Wah: affirmed, states in English.
Age 31 years. Clerk in a Japanese firm. Living at
61A Jalan Pasar Bharu, Pudu.

Siew Soon
Wah

Brothers and I are owners of the premises,
No.61 Jalan Pasar Bharu. I am trustee for my minor
brother. Defendant has been occupying the ground
floor of said premises since 1958. Premises built
in 1958 - shop premises. Defendant paying rental
at \$200/-.

20

I am asking for possession and double rent
from 1.12.1966 until vacant possession and costs.

XXN: I have been paid rental \$200/- p.m. up to date.

Siew Kim
Chong

P.W.2: Siew Kim Chong: affirmed, states in Hakka.
Age 60 years. Living at 67 Jalan Pasar Bharu, Pudu.
Father of P.W.1.

Property now registered in P.W.1's name. At
one time it was in my name. Premises built in 1958.
Defendant has been there since premises built -
1.3.1958. I have not at any time entered into any
agreement with Defendant.

30

XXN: I did not enter into an agreement with
proprietor of Defendant firm when they became
tenants. I was paid \$8,000/- as a consideration
for the tenancy.

Q. Did you not tell your sons you have received
 \$8,000/-?

In the
 High Court
 of Malaya

A. I did tell them. Siew Soon Wah knew of it.

The \$8,000/- was paid to the contractor who
 built the premises. He is here today. I have seen
 him outside the Court. Original rental was \$160/-.

 No.5

Judge's Notes
 of Evidence
 and
 Proceedings

Receipt for r.l.1964 produced - Ex.D.1.

Rental was for \$150/-. I now agree that rental
 was \$150/-. In 1964 rental increased. I originally
 intended to increase it to \$220/-. On 9.4.1964 I
 wrote a letter to Defendant's firm (F.9 of AB).

27th February
 1967
 (continued)

10

Discussions did not take place between me and the
 owner of Defendant firm, Chiew Siang Khoon about the
 proposed increase. There was a discussion between
 us. I agreed to increase to \$200/-. It was not
 recorded in any written agreement.

Plaintiffs
 evidence

Siew Kim Chong
 (continued)

Written agreement produced - D2 for identification.
 This is not the agreement. It is false. It bears the
 agreement about this premises. Signature appears to
 be mine. I never signed D2 or any earlier agreement.

20

In 1966 I consulted Messrs. Au-Yong & Co. I
 instructed them to terminate tenancy and offer a fresh
 tenancy at \$300/-. I did not inform Au-Yong about
 any agreement. I instructed Messrs. Au-Yong that I
 intended to institute criminal proceedings against
 Defendant. In fact I did not do so. Au-Yong took me
 to see the original agreement and subsequently my son
 wanted to see another solicitor, Mr. Mah.

30

I did lodge a report with police. This matter
 was handed to Mr. Mah and he said the matter was a
 troublesome one and asked me to take back the
 documents. I terminated Messrs. Au-Yong and took
 Mr. Mah. I then terminated Mah King Hock and engaged
 Messrs. Shook Lin and Bok. Messrs. Shook Lin & Bok
 advised me to refer documents to Department of
 Chemistry. I later asked Messrs. Shook Lim & Bok to
 withdraw the documents from Document Examiner before
 he could examine them. The documents were with
 Messrs. Shook Lin & Bok for about one year and not
 attended to. I instructed Messrs. Shook Lin & Bok
 at the beginning of April 1967. They had to take time.

40

In the
High Court
of Malaya

No.5

Judge's Notes
of Evidence
and
Proceedings

27th February
1967
(continued)

Plaintiffs
evidence

Siew Kim Chong
(continued)

Documents were handed to Document Examiner on 22.6.1967 by Messrs. Shook Lin & Bok. I was told of it. I preferred to have the documents back, and hand them over to another solicitor.

At this stage I had the property transferred to my son.

The 4th solicitor, Mr. Devaser, did not receive any instructions from me but from my son.

RE-XN: I instructed my son to get back the documents from Messrs. Shook Lin & Bok. I know the documents were ultimately sent to the Document Examiner. Page 9 of AB refers.

10

During the discussions it was not agreed that the rent would not be increased in the near future. ~~£~~8,000/- was paid as premium for the tenancy. I did not receive ~~£~~8,000/- on 1.6.1964.

Property transferred to sons as a matter of convenience. I am old already.

Page 9 AB refers.

I changed my solicitors 4 times because of work not done.

20

Case for Plaintiffs.

Credibility of P.W.2.

Fundamental issue - was written agreement entered into between Siew Kim Chong and Defendant Company. If agreement existed, to consider validity of agreement - agreement not registrable & not registered.

Hogg, Registration of Title

Equitable interest in contract - not capable of being registered but capable of being enforced.

30

Equitable interest, (1917) A.C.214

Das on Torrens System - p.192

Received statutory recognition in - National Land Code, section 206 (3) - (1969) M.L.J. 196,197

Two cases strong on the point - (1921) 2 F.M.S. L.R.244 - (1964) M.L.J. 200, 205 G - 206 D
Walsh v. Lonsdale (1882) 21 Ch.D 10-15
Furners v. Bond (1888) 4 T.L.R. 457 a purported lease is as good as a lease.

In the
High Court
of Malaya

—
No.5

Section 23 (2) (b) of Court of Judicature Act, 1964.
 Courts Ordinance 1948, section 47, 2 sch. para.1.
 Civil Law Ordinance, section 3 - Rule of equity prevails and section 3 (1), (3) (2).
 10 Lowther v. Heaver (1889) 41 Ch.D. 264
Zimble v. Abraham (1903) 1 K.B. 577, 580
 Still the law - 13th ed. Hill & Redman, at p.119
 3rd ed. Hals. vol. 23, p.438 paras 1036, 1037.
 Specific performance will be ordered in this case.
 Specific Relief Ord. 1950, section 26 (a) & (b).
 Onus on son to prove those 3 things.

Judge's Notes
of Evidence
and
Proceedings

27th February
1967
(continued)

Plaintiffs
evidence

Section 11(c) - Damage will not compensate Defendant.
 Defendant in occupation since 1958. Provision shop
 had acquired goodwill. Difficult to compensate
 Defendant.

Siew Kin Chong
(continued)

20 Natural love & affection - transfer to son.

Bhup Narain Singh v. Gokhul Chand 61 I.A. 115;
 A.I.R. 1934 P.C. 68,70.
 Collusion - transfer. Yearly tenancy - effect - Hill
 & Redman p.119.
Harnam Singh v. Ho Seng (1935) 4 M.L.J. 15
 88,000/- by way of premium.
Toh Ching Kwan v. Ng Ah Kak (1955) M.L.J. 151
 If it can be determined.
 Right in contract - nothing to do with Land Code.

30 Calls -

D.W.1: Chooi Yong How: affirmed, states in Teochew. Defendant's
 Age 66 years. Living at 413 Pudu Road, Kuala Lumpur. evidence

I have a son, Chooi Siang Khoon. He is
 proprietor of Defendant firm - a shop at 61 Jalan
 Pasar Bharu, Pudu.

40 There was a tenancy agreement relating to that
 agreement. There was a private document but not
 done by a lawyer. It was written by landlord. I
 saw. I do not know who wrote the document. I saw
 it on 1.2.1958. There was another tenancy agreement
 at the time when the rent was increased. The second

In the
High Court
of Malaya

No.5

Judge's Notes
of Evidence
and
Proceedings

27th February
1967
(continued)

Defendant's
evidence

Chooi Yong
How
(continued)

agreement was written by me based on the first agreement. Terms similar but rent was different.

My son asked me to write the agreement. I was not present when it was signed. Old tenancy agreement was taken back by the landlord. My son told me about it.

D2 refers - this was written by me.

XXN: The new agreement was in 1964. Because of difference in rent, the new agreement was executed.

Q. Why previous agreement not referred to in new agreement?

A. Because this is a new agreement.

RE-XXN: Nil.

To 2.30 p.m.

(Sd) R.A.S.

Resumes.

D.W.2: Chooi Siang Khoon: affirmed, states in Teschew. Age 37 years. Sundry-shop-keeper. Living at 61 Jalan Pasar Bharu, Pudu. I am proprietor of Defendant firm - conduct business at this premises since February 1958. I have lived in this premises since February 1958.

I have paid S8,000/- to Siew Kin Chong before I moved in. Original rent was \$150/-. There was a written agreement.

In 1964 I received a letter from landlord purporting to terminate tenancy and offering new tenancy at \$220/-. I went to see landlord. I had a discussion with him. Then rent agreed at \$200/-. It was oral.

Written contract then drawn up. Copied from old agreement by my father. It was signed by Siew Kim Chong and I at the shop premises.

Agreement witnessed by Lim Ping Choo. He is a businessman at High Street, Kuala Lumpur.

I invited him to be a witness because I knew him well. We are business associates.

Old agreement taken back by landlord.

10

20

30

After that nothing happened about rent until 1966. Then I got a letter from lawyers. Landlord did not see me before lawyers' letter came. Landlord lives two shop-houses away. Rent fully paid up to date. D2 refers. This is the agreement written by my father. Signature are mine and Siew Kim Chong's. I took agreement for stamping. It was stamped on 9.6.1964.

In the
High Court
of Malaya

—
No.5

Judge's Notes
of Evidence
and
Proceedings

27th February
1967
(continued)

Defendant's
evidence

Chooi Yong
How
(continued)

10 XXN: I paid \$120/- stamp fees. New agreement made because it shows new rent at \$200/-. Old agreement not referred to in new agreement, because the old one was torn. I paid Siew Kim Chong \$8,000/- as deposit, not premium.

I passed Sixth Year in Chinese Primary School. I am not clever at copying agreement. There was an agreement in 1958 and the new agreement was signed by Plaintiff's father. Lim Ping Choo and I are business associates.

RE-XXN: Nil.

20 D.W.3: Lim Ping Choo: affirmed, states in Teochew. Aged 42 years. Residing at 62 High Street, Kuala Lumpur. Sales manager of Chop Kia Heng.

Lim Ping Choo

30 I have known D.W.2 for many years. He runs a business at 61 Jalan Pasar Bharu, Pudu. He does business with my firm. He asked me to witness an agreement in 1964. One day he phoned me saying he had an agreement drawn up and asked me to be a witness. I went to his shop. D.W.2 then went to fetch the landlord. Landlord came. They were at back of shop. They asked me to go inside. I saw there were 2 separate documents. P.W.2 had looked at both of the documents. Then he signed on one document. After he had signed I signed. A short while later D.W.2 also signed and I signed again after him. D2 refers. This is the document which I attested. P.W.2 signed at both places. Referred.

40 XXN: I am not related to D.W.2. When I signed D.2, I did see P.W.2 signing it. I deny signing document later on.

RE-XXN: Nil.

Case for Defendant

P. Mooney:

In the High Court of Malaya

No.5

Judge's Notes of Evidence and Proceedings
27th February 1967
(continued)

We are dealing with laymen. D2 - genuine. To distinguish (1965) 2 M.L.J. 261.

K.L. Devaser: Long list of letters First agreement never mentioned. Not mentioned in pleadings. D2 refers - not genuine. Pages 12/13 - pleadings. Change of solicitors.

Ramasamy Chetty v. Fan Seng Yew (1918) 1 F.M.S.L.R. 354.

(1967) 1 M.L.J. 167

(1970) 1 M.L.J. 7

Unreported Kuala Lumpur Civil Suit 488/69 (1921) 1 K.B. 653

10

Reply: Ramasamy's case: equitable rights are now recognised. That case cannot now be accepted. It deals with registration of deeds.

(1967) M.L.J. case - see Zimbler's case.

(1970) M.L.J. case - dubious weight.

Malacca case - section 53 - Conveyancing and Law of Property Ordinance - no claim for specific performance.

20

27(b) Specific Relief Ord. - tenancy at will.

Premium, brought up business reputation and goodwill.

C.A.V.

(Sd) R.A.S.

27.2.'70

No.6

NO. 6

Judgment

JUDGMENT

16th November 1970

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Civil Suit No.1506 of 1967

B E T W E E N : 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee 30
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIOW POOI
YUEN all of No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur
- and - Plaintiffs

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
(sued as a firm) Defendant 40

JUDGMENT

In the
High Court
of Malaya

—
No.6

Judgment

16th November
1970
(continued)

10 The Plaintiffs are the registered proprietors of premises No.61 Jalan Pasar Bharu, Kuala Lumpur, the ground floor of which is tenanted by the Defendant firm at a monthly rental of \$200/-. As the said premises were built in or about the year 1958, it is not subject to the Control of Rent Act, 1966. By a notice to quit dated 4th October 1966 and served on the Defendants, the Plaintiffs purported to terminate the tenancy but gave the Defendants the option to accept a fresh tenancy at a monthly rental of \$300/-.

The Plaintiffs contend that the Defendants' tenancy was duly terminated by the notice to quit and that as they have not accepted the offer of a fresh tenancy, they are now occupying the premises as trespassers. The Plaintiffs seek an Order for vacant possession and claim double rental from 1st December 1966 until vacant possession is delivered.

20 The Defendants deny that the tenancy was duly terminated by the said notice. In their counter-claim, they contend that they are entitled to specific performance of the agreement dated 1st June 1964 purported to have been entered into between them and one Siew Kim Chong (P.W.2), the father of the Plaintiffs and the former proprietor of the said premises. By the said agreement, it is alleged that the Defendants paid to P.W.2 a sum of \$8,000/- in consideration of which P.W.2 granted them the whole of the ground floor of the premises. The duration of the tenancy was expressed by the agreement to be for so long as the Defendants wished to occupy and the monthly rental was fixed at \$200/- per month, P.W.2 undertaking not to increase it unless an increase was made in assessment. The Defendants contend that since they have at no time indicated to P.W.2 that they did not wish to continue in occupation and that since there has been no increase in assessment since the date of the said agreement, P.W.2 was in breach of the agreement when he purported to terminate the Defendants' tenancy on 30th November 1966. The Defendants refused to accept the offer of a new tenancy and prayed for specific performance of the agreement, an order restraining the Plaintiffs from acting in breach of the terms of the agreement or in the alternative damages for breach of the agreement.

30

40

In the
High Court
of Malaya

—
No.6

Judgment

16th November
1970
(continued)

P.W.2 denies having executed the said agreement and maintains his signature to it was a forgery. On 22nd June 1967, that agreement together with other documents admittedly signed by P.W.2 were by consent of the Defendants and P.W.2 submitted to the Document Examiner of the Department of Chemistry for the purpose of determining whether P.W.2's signature was forged.

The fundamental issue that arises in this case is whether any written agreement was entered into between P.W.2 and the Defendants and whether, if the agreement existed, it was valid and enforceable. The question of the existence of the written agreement is one of fact. 10

In his evidence, P.W.2 denied that he had ever entered into any written agreement with the Defendants and stated that when he and the proprietor of the Defendant firm discussed an increase in rental from the original monthly rental of \$150/- to \$200/- in 1964, the agreed increase in rent was not recorded in any written agreement. He contended that the sum \$800,000/- was paid the Defendant as a premium for the tenancy. 20

On behalf of the Defendants, evidence was given by the father of the proprietor of the Defendant firm that the agreement in question was written by him based on a previous tenancy agreement which was alleged to have been taken back by the landlord, i.e. P.W.2. He admitted that he was not present when the agreement was signed. However, the defence brought in one Lim Ping Choo to testify that he saw P.W.2 signing the agreement and that he also affixed his own signature thereto as a witness. 30

In his report, the Document Examiner stated that after examining and comparing the signatures of P.W.2 given as specimens with the signature purported to be that of P.W.2 on the agreement, he was unable to express an opinion as to whether the writer of the signatures given as specimens signed the signature of P.W.2 on the agreement. 40

One important fact that must be borne in mind is the time at which the sum of \$8,000/- was given by the Defendants to P.W.2. In the further and better particulars of defence and counterclaim, the Defendants stated that the payment of \$8,000/-

consisted of S500/- in cash and \$7,500/- by way of three cheques dated 4.2.'58, 10.2.'58 and 12.2.'58 respectively, drawn by Hong Tai & Co. in favour of Yong Fong Lee Hong Kee and delivered by the said Yong Fong Lee Hong Kee to P.W.2 who negotiated it with Yong Ching. It is inconceivable, if there were really two agreements entered into as claimed by the defence, that these cheques drawn in 1958 were for payment of the consideration in the first agreement on which the second agreement, i.e., the agreement in question, was based. But this was not mentioned in the defence submission and neither was the first agreement mentioned in the pleadings. The strange fact thus remains that the Defendants are submitting that the three 1958 cheques and \$500/- cash (date of payment of which was not mentioned) were payment made in pursuance of an agreement purported to have been made in 1964.

In the
High Court
of Malaya

—
No.6

Judgment

16th November
1970
(continued)

10

20

In the circumstances I cannot come to any other conclusion than that there was no agreement ever entered into between the Defendants and P.W.2. The payment of \$8,000/- by the Defendant firm in 1958 can only be consistently explained as payment of the premium by the Defendants to P.W.2 in consideration of the tenancy granted to them in 1958. As the premises are not under the Rent Act 1966, the premium is not within the prohibition of s.10 of the said Act and is therefore not illegal.

30

Even if it can be assumed that there was such an agreement, I am bound by authority and by reason to hold the agreement void for uncertainty in view of the term that the duration of the tenancy is to be for so long as the Defendants wished to occupy and thus violates s.30 of the Contracts (Malay States) Ordinance 1950 which enacts:

"Agreements, the meaning of which is" not certain, or capable of being made certain, "are void."
(See Hajara Singh v. Muthukaruppan and Ors) *(1)

40

Having found that there was no written agreement entered into between the Defendants and P.W.2, the counterclaim must accordingly be dismissed with costs.

The Defendants' tenancy was therefore duly terminated by the notice to quit dated 4th October 1966

*(1) (1967) 1 M.L.J. 167 F.C.

In the
High Court
of Malaya

—
No.6

Judgment

16th November
1970
(continued)

and as they have not accepted the fresh tenancy as offered by the Plaintiffs, they must account to the Plaintiffs for double rent with effect from 1st December 1966 until they deliver vacant possession. There will be judgment for the Plaintiffs as prayed and costs.

(RAJA AZLAN SHAH)
Judge, High Court,
Malaya

Kuala Lumpur,
16th Nov. '70.

10

K.L. Devaser for the Plaintiffs
Mr. Peter Mooney for the Defendants

No.7

NO. 7

Order on
Judgment

ORDER ON JUDGMENT

16th November
1970

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Civil Suit No.1506 of 1967

B E T W E E N : 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIOW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
Plaintiffs

20

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant

BEFORE THE HONOURABLE MR. JUSTICE RAJA AZLAN SHAH

30

This 16th day of November, 1970 IN OPEN COURT

ORDER

This action coming for hearing this 27th day of February, 1970, in the presence of Mr. K.L. Devaser of Counsel for the Plaintiffs and in the

presence of Mr. Peter Mooney of Counsel for the Defendant AND UPON READING the pleadings herein AND UPON HEARING the evidence adduced by the Plaintiffs and the Defendant AND UPON HEARING the submissions of the aforesaid Counsel IT IS ORDERED that this action do stand adjourned for judgment and the same coming on for judgment this 16th day of November, 1970 in the presence of Mr. K.L. Devaser of Counsel for the Plaintiffs and in the presence of Mr. K. Thayalan of Counsel for the Defendant IT IS ORDERED that the Defendant's counterclaim be and is hereby dismissed with costs AND IT IS FURTHER ORDERED that the Defendant forthwith vacate the said premises No.61 Jalan Pasar Bharu, Pudu, Kuala Lumpur and pay the Plaintiffs double rental at the rate of \$400/- a month with effect from 1.12.1966 until vacant possession AND IT IS LASTLY ORDERED that the Defendant do pay the Plaintiffs the costs of this suit as taxed by a proper officer of the Court.

In the
High Court
of Malaya

No.7

Order on
Judgment

16th November
1970
(continued)

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Given under my hand and the Seal of the Court this 16th day of November, 1970.

(SEAL) Sd: Anwar bin Ismail
Senior Assistant Registrar,
High Court, Kuala Lumpur.

"If you, the within-named Defendant neglect to obey this Order by the time therein limited namely, forthwith or within seven (7) days from the date of service, you will be liable to process of execution for the purpose of compelling you to obey the same order"

30

(SEAL) Sd: Anwar bin Ismail
Senior Assistant Registrar,
High Court, Kuala Lumpur.

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

NO. 8

NOTICE OF APPEAL

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

No.8

F.C. Civil Appeal No.119 of 1970

Notice of
Appeal

B E T W E E N : YONG TONG HONG No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur (sued
as a firm) Appellant

20th November
1970

- and -

1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
Respondents

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(In the Matter of Civil Suit No.1506 of 1967
in the High Court in Malaya at Kuala Lumpur

- BETWEEN:
1. SIEW SOON WAH @ SIEW POOI YOONG
as Trustee
 2. SIEW SOON WAH @ SIEW POOI
YOONG and
 3. SIOW POOI YUEN @ SIEW POOI YUEN
all of No.61 Jalan Pasar Bharu, Pudu,
Kuala Lumpur Plaintiffs

20

- and -

YONG TONG HONG No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur
(sued as a firm) Defendant

NOTICE OF APPEAL

30

TAKE NOTICE that Yong Tong Hong, the Appellant
abovenamed, being dissatisfied with the decision of
the Honourable Mr. Justice Raja Azlan Shah given at
Kuala Lumpur on the 16th day of November, 1970
appeals against the whole of the said decision.

Dated this 20th day of November, 1970

Sd: Skrine & Co.,
Solicitors for the Appellant

To: The Registrar, The Federal Court, Kuala Lumpur
and to The Registrar, The High Court in Malaya at
Kuala Lumpur

and to Messrs. K.L. Devaser & Co., Asia Insurance
Building, Klyne Street, Kuala Lumpur, Solicitors
for the Respondents abovenamed.

The address for service of the Appellant is
c/l Messrs. Skrine & Co., Straits Trading Building,
4 Lebah Pasar Besar, Kuala Lumpur, Solicitors for
the Appellant abovenamed.

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

No.8

Notice of
Appeal

20th November
1970
(continued)

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NO. 9

MEMORANDUM OF APPEAL

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

F.C. Civil Appeal No.119 of 1970

B E T W E E N : YONG TONG HONG No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur (sued
as a firm) Appellant

- and -

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1. SIEW SOON WAH @ SIEW POOI
YOONG as Trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIOW POOI
YUEN all of No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur
Respondents

(In the Matter of Civil Suit No.1506 of 1967
in the High Court in Malaya at Kuala Lumpur

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BETWEEN: 1. SIEW SOON WAH @ SIEW POOI YOONG
as trustee
2. SIEW SOON WAH @ SIEW POOI YOONG and
3. SIEW POOI YUEN @ SIOW POOI YUEN all of
No.61 Jalan Pasar Bharu, Pudu, Kuala
Lumpur Plaintiffs
- and -

YONG TONG HONG No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur (sued as a firm)
Defendant

No.9

Memorandum
of Appeal

31st December
1970

MEMORANDUM OF APPEAL

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

—
No.9

Memorandum
of Appeal

31st December
1970
(continued)

Yong Tong Hong, the Appellant abovenamed appeals to the Federal Court against the whole of the decision of the Honourable Mr. Justice Raja Azlan Shah given at Kuala Lumpur on the 16th day of November, 1970 on the following grounds:-

1. The learned trial Judge was wrong in holding that there was no agreement entered into between Siew Kim Chong and the Defendants on the 1st June 1964. The said finding was contrary to the weight of evidence and in particular
 - (a) Fails to take into account the evidence of Lim Ping Choo (D.W.3) who was an independent witness. 10
 - (b) Fails to give any reasons for rejecting the evidence of the said Lim Ping Choo.
 - (c) Fails to take into account the evidence afforded by the stamping of the said agreement.
 - (d) Fails to take into account the evidence as to the conduct of the said Siew Kim Chong (D.W.2) in relation to the premises the subject matter of the agreement and in relation to the said agreement. 20
 - (e) Fails to take into account the evidence afforded by the receipt of a sum of \$8,000/- when the tenancy was first granted in 1958.
 - (f) Fails to take into account the evidence as to the identity of the recipient of the sum of \$8,000/-.
 - (g) Fails to take into account the admission by D.W.2 that the signature on the agreement appeared to be his. 30
 - (h) Failed to take into account the evidence given that the agreement entered into in 1964 was to replace an earlier agreement entered into in 1958 in identical terms save as to the rent.
 - (i) Fails to take into account Siew Kim Chong's denial that he received \$8,000/-.
2. The learned trial Judge's grounds for holding

there was no agreement entered into in 1964 because the payments were made in 1958 fails to take into account the evidence given as to the circumstances in which the 1964 agreement came into being and fails to take into account the further and better particulars filed by the Defendants as to the dates on which the sum of \$8,000/- was paid. The conclusion that because payment was made in 1958 there could have been no agreement in 1964 is a non-sequitur.

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

—
No.9

Memorandum
of Appeal

31st December
1970
(continued)

- 10 3. The learned trial Judge in holding that it was not illegal to receive a premium for the grant of a tenancy failed to consider the nature of the tenancy created in a case where consideration in addition to rent is paid.
4. The learned trial Judge was wrong in holding, if he did so hold, that one month's notice was sufficient to determine a tenancy of the kind in issue in these proceedings.
- 20 5. The learned trial Judge was wrong in law in holding that the nature of the agreement was such that there could not be an Order for specific performance of it or alternatively damages and failed to appreciate that agreements not in registrable form and not registered are capable of being enforced between the parties to them as contracts.
6. The learned trial Judge was wrong in holding the agreement void for uncertainty.

Dated this 31st day of December, 1970.

Sd: Skrine & Co.,
Appellant's Solicitors

30 This memorandum of Appeal is filed by Messrs. Skrine & Co., Straits Trading Building, No.4 Leboh Pasar Besar, Kuala Lumpur, Solicitors for the Appellants above named.

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

NO. 10

NOTES OF ARGUMENT
RECORDED BY ONG. C.J.

No.10

Notes of
Argument
recorded by
Ong. C.J.

11th February
1971

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

Federal Court Civil Appeal No.119 of 1970

B E T W E E N : YONG TONG HONG (sued as a firm)
- and - Appellant

- 1. SIEW SOON WAH @ SIEW POOI
YOONG (as trustee) 10
- 2. SIEW SOON WAH @ SIEW POOI
YOONG
- 3. SIEW POOI YUEN @ SIEW POOI
YUEN Respondents

(In the matter of Kuala Lumpur High Court
Civil Suit No.1506 of 1967)

- BETWEEN: 1. SIEW SOON WAH @ SIEW POOI YOONG
(as trustee)
- 2. SIEW SOON WAH @ SIEW POOI YOONG
 - 3. SIEW POOI YUEN @ SIEW POOI YUEN 20
- Plaintiffs

- and -

YONG TONG HONG (sued as a firm)
Defendant

Cor: Ong, C.J.
Suffian, .F.J.
Gill, F.J.

NOTES OF ARGUMENT RECORDED BY ONG. C.J.

11th February 1971

Peddie for appellant. 30
K.L. Devaser for respondent.

Peddie: This is case of a lease in non-registrable
form where parties ask court to construe the meaning
and effect of the contract. The contract here is on
p.40 - it contains 2 undertakings by the landlord -
(1) occupation as long as tenant wishes and
(2) rent shall not be increased except re assessment.

2nd is important because this case arose out of landlord's breach of this condition.

The agreement is in two parts - one made in Chinese, other in English - breach of undertakings: see p.51 on 4.10.66. Real object was to increase the rent.

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(continued)

10 Peddie (contd.) Judge found that the agreement was not genuine - how get over this difficulty of finding of fact? (see p.34F) But cf. p.32F to 34E he expressed no opinion as to credibility of D.W.1, D.W.2, D.W.3, P.W.2. His reason, therefore, was based on evidence of payment of the \$8,000/-. In this connection one must look at counterclaim (p.10) and defence thereto, p.15B - an evasive denial.

Particulars (p.17) showed payments in 1958 relied on - the time appellant went into occupation - and in 1964 was the first revision of rent.

20 (Particulars filed 27.12.67 shortly after suit began.)

See: Evidence of P.W.2 at p.22D - increase in 1964 to \$200 p.m.

Receipt of \$8,000/- admitted (p.22B) a payment to the building contractor (D). The tenant was financing completion of the building. In the circumstances it was reasonable that tenant be given favourable terms.

30 Case for appellant in court below that there had been an earlier document made in 1958 - identical except for amount of rent - to the 1964 agreement (denied by P.W.2: see p.22B). But D.W.1 (at p.26E) gave evidence contra on this point.

Submit the Judge didn't remember this - it appears on Ex. D.2 - the date of stamp 9.6.64 and payment of \$120/- - this is the acid test of genuineness - inescapable - but ignored by Judge.

40 Peddie (contd.) (Gill: why charge of \$120 on stamping? And see a previous letter in same terms - (p.49). The stamp fees would be as on lease for an indefinite term).

Of P.W.2's conduct - his evasive denial of

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receipt of the \$8,000/- - (p.57) - P.W.2 only admitted receipt after seeing contractor in court - he changed solicitors - repeated denials of agreement - issued challenge and threats of prosecution by 4 different solicitors - document went for examination eventually to Chemistry Department - P.23A (signature appears to be mine (P.W.2)).

17.10.66 demands for increase resisted by tenant (p.52).

25.10.67 suit filed (a year later) - meantime he transferred premises to his sons - submit, clearly an attempt to prove sons not bound by the contract.

10

D.W.3 was a totally independent witness - note p.29 - especially at D.

If one reviews whole of the evidence and note the grounds on which he rejected the document - that document must be held genuine and his conclusion based merely on date of payment, led to his error.

Now, as to question of law: Judge's view (p.35) on authority of Hajara Singh (1967) 1 M.L.J. 167. There, (1) oral agreement "as long as he wished during his lifetime"; (2) notice given was 6 mths.; (3) defence as here, but no counterclaim. Held under s.30 void for uncertainty (p.167G) - in any case the 6 months notice was reasonable.

20

Our s.30 = s.29 Indian Contract Act. Pollock & Mulla (8th Ed.) p.243. Aulad Ali v. Syed Ali Athar I.L.R. (1927) A.. 527. Muhammad Jan v. Fazal-ud-Din I.L.R. (1924) All. 514.

30

No limitation in time is not an uncertainty. The only uncertainty is in length of holding.

Only English case is Lace v. Chantler (1944) K.B. 368. But see Law of Property Act 1925, s.146(8).

Peddie (contd.) Note Great Northern Rly. Co. v. Arnold (1916) 33 T.L.R. 114. Hill & Redman (12th Ed.) p.48. (13th Ed.) p.49-50.

If the agreement is interpreted as in Zimble v. Abrahams (1903) 1 K.B. 577 it can't be held void for uncertainty.

40

Here, even if void for registration as a lease, the agreement is one to which the tenant is entitled to specific performance as between the parties - see p.580 per Vaughan Williams L.J.

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Question void for non-registration. See s.206(3) of National Land Code - preserved validity of contracts - recognising Haji Abdul Rahman (1917) A.C.209 on same reasoning as Zimbler v. Abrahams. See In re King's Leasehold Estates (1873) 16 Eq. 521 @ 523, 526, 527. Snell's Equity (25th Ed.) p.12-13. - equity to prevail over common law - see also our Civil Law Ord. s.3(2). Lim Nyuk Chan v. Wong Sz Tsing (1964) M.L.J. @ 204E - on enforcement of contract - in Torrens system jurisdictions.

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(continued)

Re uncertainty in term: Woodfall (26th Ed.) Vol.I p.236. and see para 553 @ p.238. Wood v. Beard (1876) 2 Ex. p.30 @ p.37. It was additional condition "so long as lessor has power to let" that introduced the uncertainty.

20 Qn: Should the appellant have a lease for 30 years? Submit yes, terminable either by his vacating or by his death (the contract being personal). This solution would follow Great Northern Rly. Co. v. Arnold (1916) 33 T.L.R. 114. Parker v. Taswell 44 E.R. 1106 @ 1111. Gregory v. Mighell 34 E.R. 341, 343. (the court decreed sp. perf. & fixed rent). Lowther v. Heaver (1899) 41 Ch.D. 248, 264. Submit, if all argument fails, the tenant should have been given 6 months notice as for a tenant from year to year.

30

Toh Ching Kwan v. Ng Ah Kak (1955) M.L.J. 151. (Wilson J.) Harnam Singh v. Ho Seng (1935) M.L.J.15. (see Simmons v. Crossley (1922) 2 K.B. 95 @ 107. P.41 - expenditure incurred by appellant in addition to payment of £8,000/-. What is "reasonable notice" Submit judge-made law. Simmons v. Crossley (1922) 2 K.B. 95. Queen's Club Gardens Est. v. Bignell (1924) 1 K.B. 117 @ 123 (Lush J.)

40 Precious v. Reedy (1924) 2 K.B. 149. Lemon v. Lardeur (1946) 1 K.B. 613. cf. Bowen L.J. @ p.781 in Dalton v. Angus 6 A.C. 741 (on judges fixing time).

Adj. to Tuesday 16th @ 9.30 a.m.

16th February 1971

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Peddie (continuing):

Even assuming a monthly tenancy - notice of 1 month (which is a judge-made period) is a rebuttable presumption - this court can say 1 month's notice is not reasonable in the circumstances.

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Entry into possession under an agreement of this sort gives rise to a tenancy greater than a monthly tenancy.

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(continued)

Locus classicus in Walsh v. Lonsdale 21 Ch.D.9 @ p.14 per Jessel, M.R. Lee Ah Low v. Cheong Lip Kien (1970) 1 M.L.J. 7 @ 14 cases cited by Ali F.J. didn't suggest the proposition he stated.

10

Rigge v. Bell 101 E.R. 265. (holding over on former terms).

Braythwayte v. Hitchcock 152 E.R. 565 @ 567.

Ladies Hosiery & Underwear Ltd. v. Parker (193) 1 Ch. 304

a case of holding over - argument @ p.315. p.325. "Thirdly etc." p.327 - last 2 lines et seq. Alder v. Blackman (1953) 1 Q.B. 146, 150. "a weekly tenancy should be presumed" on holding over.

20

Woodfall (26th Ed.) @ p.296 - para. 723. Cooper Tress v. Savage 119 E.R.15. Manfield & Sons Ltd. v. Botchin (1970) 3 A.E.R. 143, @ 147).

For payment of £8,000/- he could not have been ejected after 1st month. Here 2 covenants landlord was trying to break - and termination of tenancy was to exert higher rent.

Refer Charles Clay v. Br. Elys. Bd. Times 26.1.71 and see National Trustees etc. v. Boyd (1926) 39 C.L.R. 72 @ 81.

30

If court won't grant S.P. - it should at least declare notice insufficient. In holding lease void - the judge didn't give effect to s.66 of the Contracts Ord. - what about repayment of the £8,000/- if nothing more?

Devaser: On Facts - 2 agreements in 1958 and 1964. 1st letter p.49 - started 9.4.64 last " p.101 - " 16.8.69 nowhere was mention of previous agreement, nor in the pleadings - 2 witnesses D.W.1 (p.26F) cf. p.17

40

Case on the facts is that there was no agreement - neither the first nor the second - and that the judge was right in so holding.

In law: appellant's case is that the agreement, if there was one, was good in equity. (Hands up cases in point). see pp.1 - 8 of submission.

10. If lease void - appellant says it must be construed as a contract - but the contract would still be void for uncertainty. Hajera Singh v. Muthukaruppan Chettiar see p.9 of submission.

No question of uncertainty as to a fundamental term. see pp. 12-26. p.34 - Lace v. Chantler - submit it is good law - it overruled Zimbler v. Abrahams. see Hill & Redman (13th Ed.) 50 and 23 Halsbury p.468 note (e). See (1970) 2 A.E.R. 463 (Clay v. Br. Rlys. Bd.)

Peddie: In answer to p.4 - see p.14 of Devaser's submission - Thomson's judgment. Re Ho Ying Chye's case (p.12) - there counsel admitted a monthly tenancy - (cf. p.16) not an admission here. Zimbler v. Abrahams was not overruled - see p.372 of Lace v. Chantler.

C.A.V.

Sgd. H.T. Ong

TRUE COPY

Sd: illegible
(TNEH LIANG PENG)

Secretary to Chief Justice
High Court
Malaya

5 JUN 1971

In the
Federal Court
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(Appellate
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—————
No.10

Notes of
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recorded by
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(continued)

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NO. 11

NOTES OF ARGUMENT
RECORDED BY SUFFIAN F.J.

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

No.11

Federal Court Civil Appeal No.119 of 1970

Notes of
Argument
recorded by
Suffian F.J.

B E T W E E N : YONG TONG HONG No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur (sued
as a firm) Appellant

- and -

10

11th February
1971

1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Respondents

(In the Matter of Civil Suit No.1506 of
1967 in the High Court in Malaya at
Kuala Lumpur

20

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI YOONG
(as trustee)
2. SIEW SOON WAH @ SIEW POOI YOONG and
3. SIEW POOI YUEN @ SIEW POOI YUEN
all of No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur Plaintiffs

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
(sued as a firm) Defendant

30

Coram: H.T. Ong, Chief Justice Malaya,
Suffian, Federal Judge, Malaysia,
Gill, Federal Judge, Malaysia.

NOTES OF SUFFIAN F.J.

Thursday, 11th February,
1971

Peddie for appellant.
K.L. Devaser for respondents.

Peddie addresses:

(A) Genuineness of documents. D.2 at p.40, Appeal Record - English there is not a Court translation of the Chinese - p.40 is photo-copy of the original.

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I have first to get over the difficulty that judge found as fact that D.2 is not genuine, p.34. P.35A. 32F-34E. Judge expresses no opinion as to credibility of DW1-3 and FW2. So he based his finding on payment of \$8,000.

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Consider evidence of \$8,000. Counterclaim, p.10. para. 7(a). Defence on p.15 B1 - evasive denial - said not on 1.6.64, did not add "or at all". Particulars, p.17, filed not long after suit began, give full details.

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(continued)

Tenant first went into occupation in 1958, paid \$8,000 then; what happened was that in 1964 was the first revision of rent. Borne out by FW2 himself, p.22E.

Original rent \$150. Increased in 1964 to \$220. PW2 admits receiving \$8,000, p.22E to C4. In fact tenant financed part of the building in return for tenancy of ground floor.

Tenant says there was an earlier document in 1958 identical to 1964 document except for rent. Put to PW2, who denied it, p.22B. Tenant's father, p.26E, says there was a prior agreement, which was torn up. Note parties were laymen and documents drawn up by laymen.

Vital evidence not referred to by judge in his judgment. It appears on D2 itself - D2 was stamped on 9.6.64 in Stamp Office and \$120 paid. Either elaborate scheme to deceive or a genuine document.

Words "On the signing of this agreement" in D2 are an exact copy of earlier agreement.

Letter at p.49 - terms there same as in D2 except for rent agreed at \$200.

Stamp Ordinance 1949, item 49 in Schedule, p.54 - \$1 for each \$250 if not more than 1 year, \$2 between 1 and 3 years, \$4 for more than 3 years or if indefinite. Stamp Office charged fee as for an

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indefinite term. (₹80 charged on premium, ₹40 charged on rest.)

PW2 at p.57 previously denied receiving any money at all - outside Court he saw his contractor waiting to give evidence (p.22D) - he knew game up, so admitted receipt - I had subpoenaed the contractor to give evidence.

Plaintiffs had 4 different solicitors, 3 of them gave up.

Made allegations of forgery and threats of prosecution - D2 sent to Examiner - eventually did nothing. Tenant was anxious to go ahead, but PW2 was afraid to go on.

10

PW2 at p.23 A4 says signature in D2 appeared to be mine.

P52 - we made it clear that tenant would not pay more rent in October 1966 - landlord did nothing until a year later. In the meantime, presumably on advice he transferred to his sons, hoping to say that sons not bound by the contract.

20

If agreement D2 is binding, transfer makes no difference.

DW3 is a totally independent witness - not a relation, only a business associate - no reason given for disbelieving him.

If one reviews whole of the evidence, it will appear that D2 is genuine. Judge's finding is based entirely on date of payment of the ₹8,000.

(B) If D2 is genuine, then what is its legal effect? Hajara Singh (1967) 1 M.L.J. 167 - there oral agreement - notice six months - and no counterclaim - held s.30, Contracts Ordinance, made that agreement void.

30

Section 30, Contracts Ordinance, same as Indian s.29.

Pollock & Mulla, 8th edition, p.243. No case law cited on Indian s.29.

Aulad Ali v. Ali Athar I.L.R. 1927 All. 527;

or 100 I.C.683. Full Court approves Lundsay's judgment in :- Mohd. Jan 1924 I.L.R. 46 All. 514. Only uncertainty here is the term of the tenancy - premises and rent are known.

In England leases for uncertain period are void.

Lace v. Chantler 1944 K.B. 386 (tenancy for duration of the war). Not followed recently. Also in 1944 Parliament passed an Act to change the law.

10 Law of Property Act, 1925, s.149 (6) converts tenancy for life to 99 year lease.

Great Northern Railway Co. v. Arnold 1916 33 T.L.R. 114 followed by Parliament.

In 1964 maximum permissible term for lease was 30 years - under National Land Code s.221 it is 99 years for whole land, 30 years for part.

Hill & Redman's Law of Landlord & Tenant, 13th edition, p.49, note (a).

20 If agreement is treated same as in Zimbler v. Abraham 1903 1 K.B. 577, then it can't be treated as void - there specific performance ordered of agreement even if void at law. Here even if agreement void for non-registration, tenant is entitled to specific performance as against parties to the contract and their successors, P.580.

Submit that D2 here is capable of specific performance.

30 National Land Code, s.206 (3) - contractual operation. Codifies P.C. decision in A. Rahman 1917 A.C.209.

Similar to Zimbler is Re King's Leasehold Estates 1873 L.R.16 Eq.521. Headnote, 523, 524. Equity will not allow tenant to be turned out.

Snell's Equity, 25th edition, p.13 - equity prevails over common law. Civil Law Ordinance, s.3 (2) is the same.

Lin v. Wong 1964 M.L.J. 200, 204, 205, 206. Where there has been part performance, equity will compel specific performance.

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Woodfall, 26th edition, vol.1 p.236, para. 553. Tenancy for life is not void for uncertainty. It is valid. Modified by Law of Property Act, 1925, s.149 (6).

Wood v. Beard 1876 2 Ex 30 - let from year to year held void because secondly landlord had power to let - not because of uncertainty. P.37.

Submit that appellant should have a lease for 30 years from 1958, subject to earlier termination by his vacating the premises or by dying (as it is a personal contract). As was done in Great Northern Railway Co. v. Arnold 33 T.L.R. 114 (case conflicts with Lace v. Chantler).

10

Parker v. Taswell 44 E.R. 1106, 1111.

In Gregory v. Michell 34 E.R. 341, Court fixed the rent.

Sanderson 50 E.R. 909.

(C) If D2 void for uncertainty and non-registration, tenant has been in possession and performed his part of the bargain - one month's notice cannot terminate his tenancy - minimum notice is 6 months, i.e. assuming that Court is not going to give tenant a lease.

20

Zimble.

Lowther v. Heaver 41 Ch. 248, 264.

Toh v. Ng 1955 M.L.J. 151.

Harnam Singh 1935 M.L.J. 15, 16.

Here exhibit AB1 at p.41 shows tenant has spent money on alterations to the premises - with landlord's consent as can be seen by his signature.

30

Simmons v. Crossly 1922 2 KB 95. Then no law on how to terminate yearly tenancies - reasonable notice had to be given.

Tenant is running a business on the premises - one month's notice not reasonable. He cannot wind up his business within a month.

Queen's Club Gardens Estate Ltd. v. Bignell
1924 1 KB 117.

Precious v. Reedie 1924 2 KB 149.

Lemon v. Lardeur 1964 1 KB 613.

Above 4 cases considered notice.

Lush J. said in Queen's that one month's notice for monthly tenancies were a judge-made law. 6 A.C. 740.

To be continued next Tuesday, 9.30 a.m.

(Signed) M. Suffian
11.2.71.

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1971
(continued)

10

Tuesday, 16th February, 1971 in Kuala Lumpur.

Coram: H.T. Ong, C.J. Suffian and Gill, F.J.J.

Counsel as before.

Peddie continues address:

Submit one month's notice hereby not proper in the circumstances. Entry under agreement like D2 gives rise to tenancy greater than a monthly tenancy.

21 Ch. 9 Walsh v. Lonsdale p.14.

20

Lee Ah Low 1970 1 MLJ 7 - this Court has however held that one month's notice sufficient for tenancy of this kind - in which C.J. dissented. Submit that cases relied on by Ali F.J. don't support proposition that that was a monthly tenancy - they were holding-over cases. Also there was no counter-claim in that case. Original party to agreement did not take part.

Rigge v. Bell 101 E.R. 265 - a holding-over case, not case of immediate entry.

30

Braythwayte v. Hitchcock 152 E.R. 565 - does not say that, if you pay monthly it is a monthly holding.

Ladies Hosiery & Underwear Ltd. v. Parker
1830 1 Ch. 304. Plaintiff's argument, p.315. 325,

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326 - the intention was not a yearly tenancy.
327. Case does not say that only a monthly
tenancy was created at time of entry. Length of
notice required is judge-made.

Adler v. Blackman 1953 1 KB 146 is another
holding-over case. 150.

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Woodfall, 26th edition, volume 1, p.296,
para.723 - you look for the intention of the parties.

Tresse v. Savage 119 E.R.15 despite fact rent
payable monthly, tenancy was from year to year. 10

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(continued)

None of these cases say that, even if the
parties have agreed to a specific period, Courts
will say that it is for a different period.

Manfield & Sons Ltd. v. Botchin 1970 3 AER 121,
123 - Court gives effect to expressed intention of
the parties - despite rent on yearly basis, tenancy
only one at will.

If in instant case tenant had entered and within
a month had been given notice to quit, Court would
not have allowed it. Tenant agreed to pay £8,000
and in exchange for it was to obtain a substantial
term, not one month. So submit one month's notice
not enough. 20

Here we are concerned with 2 covenants that
landlord tried to break.

Tenant to occupy at same rent. Landlord did not
think tenant undesirable, but that he should pay
more rent. Recent case in London Times was identical.

In Australia estoppel. National Trustees
Executors & Agency Co. of Australia Ltd. v. Boyd 39
Commonwealth Law Reports 72, p.81. 30

If Court is not prepared to grant specific
performance, at least it should treat notice as void.

In holding lease void, judge did not give effect
to s.66, Contracts Ordinance. Tenant paid £8,000 to
pay long tenancy; if he does not get long tenancy,
then at least he should get his £8,000 back.

Contract D2 binds father, binds sons also -
Indian cases to that effect - sons had notice, not

purchasers for value without notice.

Devaser addresses:

(A) Facts

Tenant says 2 agreements: 1958, 1964. Judge did not consider all the evidence in his judgment.

With regard to 1958 agreement, first letter p.49 was dated 9.4.64. Last letter 16.8.69. Nowhere in letters was mention made of 1958 agreement. They say in evidence for first time that 1958 agreement existed and had been torn up - but never said so in pleadings, nor in correspondence. Judge held there was no first agreement - and no second agreement.

P.50 curious reference to 1964 agreement - but no mention of 1958 agreement.

DW1 p.26.

First reference to \$8,000 was on p.17 - 1.3.58 tenant entered. Saw agreement on 1.2.1958. I submit no written agreement at all here, in 1958, and in 1964 and Judge was right in his findings.

(B) Law

Tenant says D2, if it existed, was good in equity to confer lease.

Hands in list of cases, which list contains relevant extracts from judgments. Any lease over a year must be registered, otherwise it is void and it is good only as a contract - but D2 as an agreement is uncertain and therefore void.

Hajara Singh 1967 1 MLJ. 1964 MLJ 200. There was no uncertainty as to fundamental terms.

Haji A. Rahman 1 FMSLR 290.

Ramasamy Chetty v. Gan Seng Yew 1 FMSLR 354.

Lin Nyuk Chan v. Wong Sz Tsin 1964 MLJ 200.

Ho Ying Chye v. Teh Cheong Huat 1965 2 MLJ 261.

Cheong Lep Keen v. Tan Tin Kek 1968 2 MLJ 126, 1970 1 MLJ 7.

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(continued)

In the
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Yong Sin Yong v. Chong Seong unreported (K.L.
High Court C.S. 488/69). Premium paid is not
illegal and cannot be recovered. Submit this case
is good law.

No.11

Mason, Herring & Brooks v. Harris & Another
1921 1 KBD 653.

Lace V. Chandler 1944 1 AER 305.

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Zimblor v. Abrahams 1903 1 KB 577.

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(continued)

Hill & Redman, 13th edition, p.50, first five
lines. 23 Halsbury's Laws of England, 3rd edition,
468. London Times 25.1.71 British Railway Board,
1970 2 AER 463.

10

Peddie replies:

Ramasamy Chetty 1 FMSLR 354 - in answer to
Devaser see p.14 in his bundle.

Ho Ying Chye - counsel there admitted it was
monthly tenancy - p.16 Devaser's list - we don't
admit here - there was an assignment.

Yong Sin Yong - counsel there put his case
wrong way.

20

Zimblor not overruled - see p.372 - it is still
good law in England, see Hill & Redman and Halsbury
as cited by Devaser.

London Times case.

Court should not defeat terms agreed by parties.
Tenant undesirable, only landlord wants more money.

O.A.V.

(Signed) M. Suffian

16.2.71.

Salinan yang di-akui benar Certified true copy

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Sd. Illegible

Setia-usaha kapada Hakim

Secretary to Judge

Mahkamas Persekutuan

Federal Court, Malaysia

Kuala Lumpur

Kuala Lumpur

10.6.1971.

NO. 12

NOTES OF ARGUMENT
RECORDED BY GILL F.J.

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

No.12

Federal Court Civil Appeal No.119 of 1970

Notes of
Argument
recorded by
Gill F.J.

B E T W E E N : YONG TONG HONG No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur (sued
as a firm) Appellant

11th February
1971

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- and -

1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG
3. SIOW POOI YUEN @ SIEW POOI YUEN
all of No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur

Respondents

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(In the Matter of Civil Suit No.1506 of 1967
in the High Court in Malaya at Kuala Lumpur

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI YOONG
as trustee
2. SIEW SOON WAH @ SIEW POOI YOONG
3. SIOW POOI YUEN @ SIEW POOI YUEN
all of No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur Plaintiffs

- and -

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YONG TONG HONG No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur (sued as
a firm) Defendant

Cor: Ong, C.J.
Suffian F.J.
Gill F.J.

NOTES RECORDED BY GILL F.J.

11th February, 1971

Enche S.D.K. Peddie for appellant
Enche K.L. Devaser for respondents

Peddie: Appeal arising from a case in which an un-
registrable lease was set up. The document appears

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at page 40 of record. It contains two major undertakings by the landlord. Firstly, the tenant could remain in possession as long as he likes. Secondly, there was to be no increase in rent unless assessment was increased.

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Notes of
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(continued)

The case arose when the landlord sought to break the second undertaking contained in that document. Refer to letter at page 51 of record. The real object therefore was to increase the rent. I have to get over the difficulty that the learned trial Judge found as a fact that D2 (at page 40) was not a genuine document. This appears at page 34 of record. Then the learned Judge found the agreement to be void for uncertainty (see page 35). The Judge reviewed evidence at pages 32F to 34E. He expresses no opinion as to the credibility of D.W.1, D.W.2, D.W.3 and P.W.2. He therefore based his finding of fact on the payment of the sum of \$8,000/-.

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In considering this payment of \$8,000/- one must first look at the counterclaim, paragraph 7(a). The defence to that counterclaim is in paragraph 6 of defence to counterclaim. An evasive denial. Further and better particulars at page 17. The tenant first went into occupation in 1958. The first revision of rent was made in 1964 when the alleged agreement was made. Refer to evidence of P.W.2 at page 22 line D. By mutual agreement rent raised to \$200/-. Evidence as to payment of \$8,000/- on the same page. In other words, the tenant financed the completion of the house. Hence the favoured terms.

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Case for the appellant was that there had been an earlier document made in 1958 which was identical to the 1964 agreement except for the rent. This was put to P.W.2, but he denied it (see page 22). D.W.1 gave evidence (at page 26 line E) about the earlier agreement.

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One vital piece of evidence which the Judge did not refer to at all in his judgment. This appears on the fact of D2 itself. On the face of it, the document was stamped in the Stamp Office on 9th June, 1964. Either the document should be accepted on its face value, or it must be considered as a fraud on the part of the tenant by an elaborate scheme. This vital evidence was ignored by the learned trial Judge. There was a dispute then, but it was settled on the tenant agreeing to pay \$200 a month.

40

Evasive denial about receiving ~~₹~~8,000/-. Refer to letter at page 57. Admitted payment when he knew that the contractor to whom the money was paid was outside the Court (evidence at page 22). Had four different solicitors. Allegations of forgery and threats of prosecution by four different solicitors. Eventually P.W.2 did nothing. D2 sent to Chemistry Department by agreement of parties. P.W.2 said (at page 23): "Signature appears to be mine."

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Letter at page 52 of record, dated 17th October, 1966. Writ was issued on 25.10.67. In the meantime he put the premises out of his name into the names of his children, in an attempt to put forward the argument that the sons were not bound by the agreement.

D.W.3 was a totally independent witness. His evidence appears at page 29.

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If one reviews the whole of the evidence and the document is genuine, then the Judge's finding was based purely on his view as regards the payment of ~~₹~~8,000/- made in 1958.

30

I now come to the Judge's finding that if the document was genuine it was void for uncertainty. For this he relied on the case of Hajara Singh v. Muthukaruppan & Ors (1967) 1 M.L.J.167, in which an oral agreement of the sort in this case, was set up as a defence and not by way of counterclaim. It was held in that case that section 30 of the Contracts (Malay States) Ordinance, 1950 rendered the agreement void. The further ground was that there had been reasonable notice.

Section 30 of our Ordinance is similar to section 29 of the Indian Contract Act. Refer to Pollock & Mulla (8th edition) page 243. Refer to Aulad Ali vi Ali Athar I.L.R. (1927) 49 Allahabad 527; Muhammad Jan v. Fazal-Ud-Din (1924) I.L.R. Allahabad 514. The only possible uncertainty here is the term of the lease.

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Refer to Lace v. Chantler (1944) K.B.368; seems to support the view that a lease is void if the term of the lease is uncertain. Refer to section 149 (6) of the Law of Property Act, 1925. Statutory limit to leases as in the Land Code and the National Land Code.

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(continued)

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(continued)

Refer to Hill & Redman's Law of Landlord and Tenant (12th edition) p.48. The agreement cannot therefore be held to be void for uncertainty. Refer to Zimbler v. Abrahams (1903) 1 K.B.577. Here even if void for non-registration as a lease, the agreement is capable of specific performance as between the parties and their heirs. Read passage from page 580 in Zimbler v. Abrahams.

(Court adjourned and resumed after 10 minutes)

Peddie (continued)

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Refer to section 206 (3) of the National Land Code; Haji Abdul Rahman's case (1917) A.C.209.

Similar to Zimbler's case is the case of In re King's Leasehold Estates, Ex parte East of London Railway Company (1873) 16 Equity cases 521, 523, 524. Refer to Snell's Equity (25th edition) p.13 - cases where equity prevails over common law. Refer to section 3 (2) of the Civil Law Ordinance, 1956; Lin Nyuk Chan v. Wong Sz Tsin (1964) M.L.J. 200.

On the question of uncertainty of term, refer to Woodfall (26th edition) p.236; Wood v. Beard (1876) 2 Exchequer 30, 37 (reason for uncertainty).

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Appellant is entitled to 30 years' lease, but determinable earlier by his going out of possession or dying. This was done in GreatNorthern Railway Company v. Arnold (1916) 33 T.L.R.114; Parker v. Taswell (1858) 44 E.R. 1106, 1111; Gregory v. Michell (1811) 34 E.R. 341.

Refer to Lowther v. Heaver (1889) 41 Chancery 248, 264. Even if my other arguments are not valid, one month's notice is not enough. A minimum notice would be six months. Refer to Toh Ching Kwan v. Ng Ah Kak & Anor (1955) M.L.J.151; Harman Singh v. Ho Seng (1935) M.L.J.15. Here a sum of ~~88,000/-~~ was paid, and some money was expended on alteration to the house (Exhibit AB.1 at page 41). Open to Court to say that one month's notice is not enough. Refer to Simmons v. Crossley (1922) 2 K.B. 95; Queen's Club Gardens Estates Limited v. Bignell (1924) 1 K.B. 117, 123; Precious v. Reedie (1924) 2 K.B.149; Lemon v. Lardeur (1946) 1 K.B.613; Dalton v. Angus 6 A.C.740 as to fixing of time by Judge.

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Adjourned to 16.2.71 at 9.30 p.m.

16th February 1971

Hearing continued. Counsel as before.

Peddie (continuing):

I was dealing with notice required in terminating a tenancy of this kind. The period of one month is a judge-made period. It raises a rebuttable presumption. Court can say that there is not a reasonable period in the particular circumstances of this case. It is, however, my contention that entry under an agreement of this kind gives rise to a tenancy greater than a monthly tenancy. Classical exposition of this is contained in the English case of Walsh v. Lonsdale (1882) 21 Ch. 9, 14. Current situation since the Judicature Act. On the other hand, there is a local case to the contrary. Refer to Lee Ah Low v. Cheong Lep Keen & Anor (1970) 1 M.L.J.7. Cases cited by Ali F.J. in that case do not support the proposition at all. Cases show that the Court looks for the intention of the parties.

Refer to Doe d. Rigge v. Bell, 101 E.R.265; Braythwayte v. Fitchcock (1842) 152 E.R. 565, 567; Ladies' Hosiery and Underwear Ltd. v. Parker (1930) 1 Ch. 304; Adler v. Blackman (1953) 1 Q.B. 146, 150 (2nd para); Woodfall on Landlord and Tenant (26th edition) Vol.1 p.296; Tress v. Savage (1853) 119 E.R.15.

A case in the opposite direction, refer to Mansfield & Sons Ltd. v. Botchin (1970) 1 All. E.R. 143, 147 - intention of the parties as spelt out in the agreement.

One month's notice in this case cannot possibly stand. Two covenants which the landlord is trying to break. True purpose of terminating the tenancy was to exact a higher rent from the tenant. Refer to Charles Clay & Sons Ltd. v. British Railways Board, Times 26th January, 1971.

Refer to National Trustees, Executors & Agency Co. of Australia Ltd. v. Boyd (1926) 39 C.L.R. 72, 81. This landlord similarly has no right to terminate the tenancy. The very least that this Court should hold is that the notice was insufficient.

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In holding the lease void, the learned trial Judge had not given effect to section 66 of the Contracts (Malay States) Ordinance, 1950. No value paid for the tenancy. Plaintiffs had notice. If everything fails the tenant should have the \$8,000 back.

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Devaser:

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Facts of the case. Appellant's case is that there were two agreements and that the Judge did not consider all the evidence in coming to his conclusion.

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(continued)

Correspondence started in 1964. First letter is at page 49 of record. Nowhere was any mention made to the previous agreement. They mentioned it for the first time in Court. No mention in the pleadings about the first agreement. The Judge held that there was no first agreement. Evidence of D.W.1 at page 26, whereas at page 17 money is alleged to have been paid on 4.2.58. Appellant went into occupation on 1.3.58.

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My case on the facts is that there was no agreement, either first or second, and that the Judge was right in so holding.

On law, the case for the appellant is that this agreement, if there was an agreement, is good as an agreement for lease in equity. In this connection I have prepared a list of cases and the relevant passages therefrom, which I would hand over to Court. Refer to page 1 of my notes on cases.

Haji Abdul Rahman & Anor v. Mohamed Hassan, 1 F.M.S.L.R. 290, 298. Refer to Ramasamy Chetty v. Gan Seng Yew, 1 F.M.S.L.R. 354, 355. The present agreement was made in 1964 and was therefore governed by the Land Code. The agreement was void for uncertainty.

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Refer to Lin Nyuk Chan v. Wong Sz Tsin (1964) M.L.J.200. There was no question of uncertainty as to the fundamental term of the tenancy. This was not a case of uncertainty as to some subsidiary matter.

Refer to Ho Ying Chye v. Teh Cheong Huat, (1965) 2 M.L.J. 261; Hajara Singh v. Muthukaruppan & Ors (1967); 1 M.L.J. 167; Cheong Lep Keen & Anor v. Tan Tin Kek (1968) 2 M.L.J. 126; Lee Ah Low v. Cheong

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Lep Keen & Anor (1970) 1 M.L.J. 7, 9. The fact that there was no counterclaim in that case does not matter. Refer to unreported judgment of Senior Assistant Registrar in Civil Suit No.488 of 1969, which was upheld by the Chief Justice on appeal.

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Refer to Lace v. Chantler (1944) 1 A.E.R. 305, which is good law. Zimbler's case was overruled by that case. Refer to Hill & Redman (13th edition) p.50; Halsbury (3rd edition) Vol. 23, page 468 note (e); Charles Clay & Sons Ltd. v. British Railway Board (1970) 2 A.E.R. 263.

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Peddie (in reply):

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(continued)

One has to be careful with cases of the vintage of Ramasamy Chetty v. Gan Seng Yew, 1 F.M.S.L.R. 290. The answer to this in the passage in the judgment of Thomson, C.J. at page 14 of Mr. Devaser's note in Margaret Chua v. Ho Swee Kiew & Ors. We do not admit here that this was a monthly tenancy.

Yong Sin Yong's case does not apply. We are not saying that the sum of \$8,000 was an illegal payment.

Zimbler v. Abrahams was not overruled by Lace v. Chantler (see page 372 of that report). Zimbler v. Abrahams is still regarded as good law in England.

Here as in Charles Clay & Sons Ltd. v. British Railway Board, the landlord wants more rent.

C.A.V.

S.S. Gill

27th April, 1971

Enche S.D.K. Peddie for appellant.
Enche K.L. Devaser for respondents.

Suffian F.J. reads the judgment of the C.J. with which he and I agree. Appeal allowed. Respondents' claim dismissed. Judgment for the appellant on his counter-claim. An order and declaration that the appellant be entitled until February 28, 1988 to remain in peaceful possession of the ground floor of the premises without let or hindrance by the respondents or their successors in title, so long as the appellant pays rent at the rate reserved by their agreement dated June 1, 1964. Appellant to have costs of the action and of this appeal. Deposit to be

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refunded to the appellant.

S.S. Gill

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Gill F.J.

Secretary to Judge
Setia-usaha kapada Hakim,
Mahkamah Persekutuan
Malaysia
Kuala Lumpur
8 JUN 1971

11th February
1971
(continued)

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No.13

NO. 13

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JUDGMENT OF ONG. C.J.

27th April
1971

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

Federal Court Civil Appeal No.119 of 1970

B E T W E E N : YONG TONG HONG (sued as
a firm) Appellant

- and -

1. SIEW SOON WAH @ SIEW POOI
YOONG (as trustee)
2. SIEW SOON WAH @ WIEW POOI YOONG
3. SIOW POOI YUEN @ SIEW POOI
YUEN Respondents

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(In the Matter of Kuala Lumpur High Court
Civil Suit No.1506 of 1967)

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI
YOONG (as trustee)
2. SIEW SOON WAH @ SIEW POOI
YOONG
3. SIOW POOI YUEN @ SIEW POOI
YUEN Plaintiffs

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- and -

YONG TONG HONG (sued as
a firm) Defendant

Cor: Ong, C.J.
Suffian, F.J.
Gill, F.J.

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JUDGMENT OF ONG C.J.

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(continued)

10 Yong Tong Hong, the firm name under which the appellant carries on the business of a sundry goods shop, was tenant of the entire ground floor of premises No.61 Jalan Pasar Bharu, Kuala Lumpur, since 1958. The landlord then was one Siew Kim Chong, father of the respondents to whom the property was subsequently transferred on September 1967. Being dissatisfied with the decision of the High Court ordering him to deliver up vacant possession of the premises, the appellant now appeals to this Court.

20 The facts which emerged at the close of the evidence on both sides are clear beyond dispute. The premises are not protected by rent control. In 1958, while the building was nearing completion, the appellant was requested by its then proprietor, Siew Kim Chong, to pay \$8,000/- on his behalf to the building contractor. The appellant was then let into occupation of the ground floor at a rent of \$150/- per month. This letting of course postulates an agreement regarding the tenancy. On April 9, 1964 the landlord gave notice to the appellant demanding an increase of rent to \$220/- per mensem. After some haggling the new rent was fixed at \$200/-. Still not content, the landlord again gave notice on October 4, 30 1966 terminating the appellant's tenancy on November 30, 1966 unless he accepted a new tenancy from December 1 at \$300/- per mensem. This offer was rejected by the appellant on the ground that the landlord had agreed in writing that the rent at \$200/- per mensem would not be further raised except upon an increase in assessment of the whole building, and then only according to the percentage of rise in the assessment.

40 The landlord, however, denied having made any such agreement as alleged; upon being supplied a photostat copy thereof, he even denied receipt of the cash payment of \$8,000/- and claimed that the agreement was a forgery, for which he would be taking criminal proceedings. This threat was not carried out, but lengthy infructious correspondence followed regarding the proposed submission of the disputed agreement to the Government's Document Examiner for forgery tests. After the transfer of the property to

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these respondents in September 1967 notice was served on the appellant in the following October that ejectment proceedings would be taken against him pursuant to the notice to quit given by their predecessor in title dated October 4, 1966. The action was commenced on October 26, 1967. It came on for trial on February 27, 1970 and judgment was given against the appellant on November 16, 1970.

The learned trial judge took the view that the fundamental issue to be decided was whether any written agreement was made as alleged; and, if so, whether it was valid and enforceable. The document in question was produced by the appellant as Exhibit D.2. It was written in Chinese, bore the signatures of the parties and was stamped at the Stamp Office in Kuala Lumpur for a fee of \$120/- paid on June 9, 1964. Alongside the Chinese writing appeared the rough English translation thereof, made apparently for purposes of stamp duty only and reciting the consideration of \$8,000/- as paid for a tenancy to endure "as long as the tenant wishes to occupy".

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The solicitors for both parties seemed to have entirely overlooked the provisions of R.S.C. Order 66 rule 8, regarding the use of certified translations. For an appeal record the same rule applies and is reproduced in rule 94 of the Federal Court (Civil Appeals) (Transitional) Rules, 1963. Upon noticing a material error in the rough translation while perusing the Chinese writing I have, in the interests of justice, caused a certified translation to be made by the official interpreter. It reads:-

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"The person Siew Kim Chong executing this document has built a shop house situated at No.61 Jalan Pasar Bharu, Kuala Lumpur.

He desires to lease out the whole of the ground floor to Chop Yong Tong Hong and the tenancy shall be permanent.

It is clearly stated here that the rent per month shall be \$200.00 of Malayan currency and hereinafter the person leasing out this house shall not increase the rent as he likes or eject the tenant by force etc.

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If the rent is to be increased or reduced, the increase or reduction shall be carried out in

accordance with the provisions of government proclamations and the percentage in the increase or reduction of rent shall be determined proportionately by the increase or reduction in assessment.

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A deposit of \$8,000.00 was received on the 1st day of February, 1958 and as it is feared that verbal words are not proof this document is written as evidence."

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10 Had a proper translation been produced at the trial, much needless confusion would have been avoided. On a distorted picture presented by the bad translation the learned trial Judge was forced to certain findings of fact adverse to the appellant. His decision, however, turned entirely on the question of law. Even assuming the agreement to be true, he considered himself bound by authority to hold it void for uncertainty since a tenancy of indefinite duration was in breach of the provisions of section 30 of the Contracts (Malay States) Ordinance 1950: see Hajara Singh v. Muthukaruppan *(1) In that case the tenancy was "for as long as the tenant wished during his lifetime", which the Judge thought indistinguishable from the words here used in the rough translation of the agreement.

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The question which we now have to decide is the effect to be given to the agreement that "the tenancy shall be permanent" - or, in the words which fell to be decided by the learned trial judge, "for as long as the tenant wished to occupy". In the case of Hajara Singh *(1) the tenant had built a house in 1952 (which he still occupied in 1965) pursuant to an agreement with the landlord Jaganath, to pay him ground rent at \$4/- per month, in consideration whereof Hajara Singh could stay "for as long as he wished during his lifetime". After Jaganath's death his successors in title gave Hajara Singh 6 months notice to quit. It was held by the Federal Court that the agreement was void for uncertainty in respect of length of tenure and that, "even if there had been a valid contract the appellant had been given reasonable notice to vacate". In holding the agreement void Barakbah L.P. purported to follow the decision in M.P.R.L. Karuppan Chetty v. Suah Thian * (2) where

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*(1) (1967) 1 M.L.J. 167

*(2) (1916) 1 F.M.S.L.R. 300

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the agreement was that, in consideration of \$35/- paid by the Chetty to Suah Thian, the landlord would rent to the Chetty a house then under construction at \$35/- a month "for a period of as long as he likes". After completion of the building the landlord refused to give possession to the Chetty who then sued for possession and damages. On the facts, therefore, the cases of Hajara Singh *(1)* and Karuppan Chetty *(2)* were vastly different. In the older case Sir T. Braddell C.J.C. referred, not only to Zimble v. Abrahams *(3)* but also to Kusel v. Watson *(4)* where it was agreed that the defendant might have a sub-lease at any period he might feel disposed and the plaintiff would not sublet or disturb him or raise the rent, and the defendant having gone into possession and laid out money in improving the property, the defendant was held entitled to a sub-lease for the residue of the term of the plaintiff's lease, if he should so long live. Sir T. Braddell then went on in his judgment to say at page 303 as follows:-

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"Another distinction to be noticed between this and the case I have referred to is that the plaintiff was never let into possession under the agreement but is relying upon this document to entitle him to claim possession or alternatively to damages for its breach. Unless therefore it appears from the agreement, as evidenced by the document, that the defendant has agreed to grant him such an interest as a Court of Equity would specifically enforce, his claim to possession must fail and with regard to his claim at law for damages, as the agreement has been reduced to writing, the document constitutes the only evidence of its terms and if its meaning is uncertain or incapable of being made certain it is a void agreement under section 29 of the Contract Enactment and is not enforceable by law."

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The passage just quoted shows that as long ago as 1916 it was recognised that where a tenant has gone into possession in circumstances which gave him such an interest as a Court of Equity would specifically enforce, he should be in a stronger

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*(3) (1903) 1 K.B. 577

*(4) 11 C.D. 129

10 position to resist the landlord's claim to possession than the ordinary tenant who had no answer on equitable grounds. Thus Karuppan, in the one case, had suffered no damage by the breach of contract other than \$35/-, which the court ordered Suah Thian to repay; moreover, there were no grounds - such as part performance and outlay on improvements by him as tenant in possession - which would entitle him to specific performance. By contrast, Hajara Singh, in the other case, had asserted in his affidavit, without contradiction, that had he not been led to believe that he would be left in undisturbed possession during his lifetime, he certainly would not have built his dwellinghouse (which was a building of a semi-permanent nature) on the landlord's property. That Hajara Singh should have been given unconditional leave to defend - instead of being precluded from doing so by the summary judgment given against him - is, in my opinion, clear from 20 authorities of long standing, such as Flimmer v. Wellington Corporation *(5) a decision of the Privy Council. There was also the then recent decision in 1965 of the Court of Appeal in England in Inwards v. Baker *(6) holding that "where a person expended money on the land of another in the expectation, induced or encouraged by the owner of the land, that he would be allowed to remain in occupation, an equity was created such that the court would protect his 30 occupation of the land, and the court had power to determine in what way the equity so arising could be satisfied."

With respect, therefore, I am of opinion that the decision in Hajara Singh v. Muthukaruppan *(1) was given per incuriam and not binding on this court. It has unfortunately been a source of error in not a few subsequent cases in the High Courts.

40 Every case must, of course, be decided according to its peculiar facts. The distinction must be drawn between cases where the tenant can resist his landlord's claim on equitable grounds and others where he has no such grounds. An example is Lee Ah Low v. Cheong Lip Kien *(7) a recent decision of this court. There the tenant was given a tenancy for 80

*(5) (1884) 9 A.C. 699
 *(6) (1965) 2 W.L.R. 212, 213
 *(1) (1967) 1 M.L.J. 167
 *(7) (1970) 1 M.L.J. 7

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years during which period the landlord agreed not to increase the rent unless the assessment rate was raised by the Municipality and the tenant was at liberty to use the premises for carrying on any type of business. The monthly rent was \$100/- and the tenant was given a month's notice to quit. No equity had been created in his favour, as in Inwards v. Baker * (6) by his going into possession. Accordingly the sole question to be determined was whether the premises were held under a yearly or monthly tenancy by reason of the lease being void for non-registration. That case was not as fully argued as it might have been, nor were the cases cited which have been brought now to our attention and carefully distinguished. The ratio decidendi, therefore, should not, in my view, be regarded as a binding precedent for all cases where premises are let for a term of years at a monthly rent under a lease void for non-registration.

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In the instant case the landlord's claim to repossession is met by a counter-claim for specific performance. As Vaughan Williams L.J. said in Zimbler v. Abrahams *(3)

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"If the defendant is entitled to specific performance, it follows that he is not liable to be ejected."

In that case the landlord's agent had promised the tenant of a house let at a weekly rent "not to raise any rent as long as he lives in the house and pays rent regular". The plaintiffs, treating the defendant as a weekly tenant, gave him notice to quit and brought an action to recover possession. Held, that the document could not, having regard to its terms, be treated as creating a weekly tenancy, and that whether it purported to be an attempt to create an immediate demise for the life of the defendant, which was void at law as not being by deed, or an agreement to grant a lease for the life of the defendant, he was entitled to specific performance.

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On the question of construing the document Vaughan Williams L.J. said, at page 582:-

*(6) (1965) 2 W.L.R. 212, 213

*(3) (1903) 1 K.B. 577

"I have then to look at the document and ask myself what interest was agreed to be granted by it. I have a difficulty in saying that the interest was to be merely a tenancy from week to week, for that would be to give effect to the earlier part of the document and none to the latter portion. If that is not to be taken as the meaning, the alternative seems to be that it was intended to grant to the defendant a lease of the house for his life subject to two conditions, one that the lessor might turn him out if he did not pay his rent regularly, and the other that the defendant could determine his own life estate by moving out."

10

And Stirling L.J. said as follows:-

"Having regard, however, to the decision of Lord Chelmsford in Parker v. Taswell *(8) we have in this case a document which, though it may have been intended to operate as a demise, may still be looked upon as an agreement for a lease capable of specific performance. If the true construction of the document is that it was not a demise which turned out to be inoperative, but an agreement for a lease, the case for specific performance is a fortiori."

20

As far as I am aware Zimblor v. Abrahams has never been directly overruled. The construction their Lordships put on the document certainly accords with the maxim ut res magis valeat quam pereat - that a contract should wherever possible be construed so that the intention of the parties may be carried out rather than frustrated.

30

A recent English authority of particular relevance hereto is Charles Clay & Sons Ltd. v. British Railways Board *(9) where the proviso in a periodic tenancy agreement, that the landlords should not terminate it unless they required the premises for the purposes of their undertaking, was held to be valid, so that the landlords, not so requiring the premises in fact, were precluded from serving notice to quit, which was therefore invalid and of no effect. As Foster J. said, after citing certain authorities:-

40

"These cases show that in modern times the parties

* (8) (1858) 2 De G. & J. 559; 44 E.R. 1106

* (9) (1970) 2 W.L.R. 1328, 1332

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

No.13

Judgment of
Ong C.J.

27th April
1971

(continued)

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

who agree to a periodic tenancy of premises can contract as between themselves that the notice to quit can be in terms agreed between them, and not in accordance only with the notice which the law would otherwise imply.

No.13

Judgment of
Ong C.J.

27th April
1971
(continued)

I can see no reason why the landlord should not agree that his right to give notice to quit should be restricted as in the present agreement, or that such a provision is repugnant to the nature of the tenancy. Certainly it seems impossible to conclude that it makes the whole agreement void".

10

This judgment has been affirmed by the Court of Appeal: see Times Law Report January 25, 1971, in which Russell L.J. had this to say with regard to certainty as to the maximum duration of the estate:-

"In the ordinary case of a periodic tenancy its duration would depend upon the time that would elapse before either party gave notice of determination. The simple statement of the law that the maximum duration of a term had to be certainly known in advance of its taking effect could not therefore have direct reference to periodic tenancies. The question was whether authority or principle should lead the court to mould or enlarge that simple statement of the law so as to adapt and apply it to such a tenancy

20

Their Lordships were in the end persuaded, there being no authority to prevent the court, that it was preferable as a matter of justice to hold parties to their clearly expressed bargain rather than to introduce for the first time in 1971 an extension of a doctrine of land law so as to deny the efficacy of that bargain".

30

In the instant case it may truly be said that there was, in the minds of the contracting parties, no uncertainty as to the period of tenure. No tenant would willingly pay a large sum of money for a simple monthly tenancy which is terminable at the will of the landlord at any time, or even after the month next following. Hence the parties here had expressly agreed upon a "permanent" letting. On the faith thereof, the ~~8~~8,000/- was paid and the structural alterations made, doubtless at the appellant's expense, as consideration for his remaining in undisturbed occupation for as long as he pleases, provided rent is paid at the rate

40

10 stated. The landlord had bound himself not to increase the rent except upon a rise in the assessment. In my view the notice of termination of the tenancy was clearly in breach of such agreement and I would follow the decision in Charles Clay v. British Railways Board *(9) by declaring the notice of termination of the tenancy invalid. The landlord had no grounds for increasing the rent and the appellant's refusal to yield to his landlord's demand therefore gave the latter no legitimate excuse for issuing his notice.

As the agreement is in effect tantamount to a lease in perpetuity, does it follow as a necessary consequence that the agreement should be held void for being in breach of the provisions of the National Land Code? In my view the answer is no. As Wylie C.J. (Borneo) said in Lin Nyuk Chan v. Wong Sz Tsin * (10)

20 "When there has been part performance (and especially in cases where a tenant has gone into possession under an agreement to lease) a court of equity will not usually refuse to decree specific performance because of uncertainty as to some subsidiary matter, but will endeavour to give effect to the intention of the parties."

The authority cited by the learned Chief Justice was Parker v. Taswell *(8) in which Lord Chelmsford L.C. said:-

30 "It must be borne in mind that this agreement has been partly executed by possession having been taken under it; and there are many authorities to show that in such a case the court will strain its power to enforce a complete performance The agreement, moreover, is admitted to be sufficiently certain as to all the substantial parts of it, and the only portions of it to which uncertainty is attributed are subordinate matters. No authority has been cited to shew that in such a case specific performance may not be decreed."

As Denning L.J. said in Inwards v. Baker, "It is for

In the
Federal Court
of Malaya
(Appellate
Jurisdiction)

No.13

Judgment of
Ong C.J.

27th April
1971
(continued)

* (9) (1970) 2 W.L.R. 1328, 1332

* (10) (1964) M.L.J. 200, 204

* (8) (1858) 2 De G. & J. 559; 44 E.R. 1106

In the
Federal Court
of Malaysia
(Appellate
Jurisdiction)

No.13

Judgment of
Ong C.J.

27th April
1971
(continued)

the Court to say in what way the equity can be satisfied."

Here it seems to me that no strain will be imposed upon the powers of this court to give effect to the expressed intention of the parties by holding that the agreement was one for the grant of as long a lease as the law allows. Section 221(3) (b) of the National Land Code provides that the maximum term for a lease of a part only of alienated land shall be 30 years. The law permits no longer term and this court should grant the appellant no less. 10

I need hardly add that the respondents take the premises subject to the agreement which binds their predecessors in title to give the appellant a lease of the premises; see again, Inwards v. Baker at page 217. Although the agreements was not a proper instrument for registration as a lease the authorities are clear that it may be treated as an agreement for a lease. The validity of contracts relating to alienated land or any interest therein is explicitly declared in section 206 (3) of the National Land Code. 20

I would accordingly allow this appeal, dismiss the respondents' claim, give judgment for the appellant on his counter-claim and order and declare that the appellant be entitled until February 28, 1988 to remain in peaceful possession of the ground floor of the premises without let or hindrance by the respondents or their successors in title, so long as the appellant pays rent at the rate reserved by their agreement in writing dated June 1, 1964. The appellant will be entitled to costs of the action and of this appeal. 30

(sgd.) H.T. ONG
CHIEF JUSTICE,
Kuala Lumpur HIGH COURT IN MALAYA
27th April 1971.

S.D.K. Peddie Esq. for appellant
K.L. Devaser Esq. for respondents. 40

TRUE COPY

Sd: Illegible
(TNEH LIANG PING)
Secretary to Chief Justice
High Court Malaya 29/4/71

NO. 14

ORDER ON JUDGMENT OF FEDERAL COURT

In the
Federal Court
of Malaysia

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

No.14

Federal Court Civil Appeal No.119 of 1970

Order on
Judgment of
Federal Court

B E T W E E N : YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Appellant

27th April
1971

- and -

- 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
- 2. SIEW SOON WAH @ SIEW POOI
YOONG and
- 3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Respondents

10

(In the Matter of Civil Suit No.1506 of
1967 in the High Court in Malaya at Kuala
Lumpur

20

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Plaintiffs

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala Lumpur
(sued as a firm) Defendant

30

Coram: Ong, Chief Justice, High Court in Malaya
Suffian, Judge, Federal Court, Malaysia and
Gill, Judge, Federal Court, Malaysia

IN OPEN COURT

This 27th day of April, 1971

O R D E R

THIS APPEAL coming on for hearing the 11th day of

In the
Federal Court
of Malaysia

No.14

Order on
Judgment of
Federal Court

27th April
1971
(continued)

February, 1971 in the presence of Mr. S.D.K. Peddie of Counsel for the Appellant abovenamed and Mr. K.L. Devaser of Counsel for the Respondents abovenamed AND UPON READING the Record of Appeal herein AND UPON HEARING the arguments of Counsel as aforesaid IT WAS ORDERED that this Appeal do stand adjourned for further hearing AND the same coming on for hearing on the 16th day of February, 1971 in the presence of Counsel as aforesaid AND UPON HEARING the arguments of Counsel as aforesaid IT WAS ORDERED that the Appeal do stand for judgment and the same coming on for judgment this day in the presence of Counsel as aforesaid IT IS ORDERED that this Appeal be and is hereby allowed and that the Respondents' claim in Civil Suit No.1506 of 1967 be dismissed and that the Appellant's Counterclaim therein be allowed AND IT IS ORDERED AND DECLARED that the Appellant be and is hereby entitled to remain in peaceful possession of the ground floor of the premises known as No.61 Jalan Pasar Bharu, Pudu, Kuala Lumpur until the 28th day of February, 1988 without let or hindrance by the Respondents or their successors in title so long as the Appellant pays the rent at the rate reserved by the agreement in writing dated the 1st day of June, 1964 AND IT IS FURTHER ORDERED that the costs of this Appeal and the costs of the Court below be taxed by the proper Officer of the Court and be paid by the Respondents to the Appellant AND IT IS LASTLY ORDERED that the sum of \$500/- paid by the Appellant into Court for security of costs be and is hereby refunded to the Appellant.

10

20

30

GIVEN under my hand and the seal of the Court this 27th day of April, 1971.

Sd: Tuan Hj. Mohd. Azmi

CHIEF REGISTRAR,
FEDERAL COURT,
MALAYSIA

(L.S.)

NO. 15NOTICE OF MOTION FOR
CONDITIONAL LEAVE TO APPEALIn the
Federal Court
of MalaysiaIN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

No.15

Federal Court Civil Appeal No.119 of 1970Notice of
Motion for
Conditional
Leave to
AppealB E T W E E N : YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm) Appellant26th May
1971

10

- and -

1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Respondents

20

(In the Matter of Civil Suit No.1506/1967
in the High Court in Malaya at Kuala
LumpurBETWEEN: 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIEW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Plaintiffs

30

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant)NOTICE OF MOTION

40

TAKE NOTICE that the Court will be moved on Monday
the 7th day of June, 1971 at the hour of 9.30 o'clock
in the forenoon or as soon thereafter as Counsel can be
heard by Mr. K.L. Devaser of Counsel for the abovenamed
Respondents for an order that conditional leave may be

NO. 16

AFFIDAVIT BY APPELLANTS

In the
Federal Court
of Malaysia

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

No.16

Federal Court Civil Appeal No.119 of 1970

Affidavit by
Appellants

B E T W E E N : YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm) Appellant

25th May
1971

- and -

- 10 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
- 2. SIEW SOON WAH @ SIEW POOI
YOONG and
- 3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Respondents

(In the Matter of Civil Suit No.1506 of
1967 in the High Court in Malaya at Kuala
Lumpur

20

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Plaintiffs

- and -

30

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant

AFFIDAVIT

We, Siew Soon Wah @ Siew Pooi Yoong as trustee,
Siew Soon Wah @ Siew Pooi Yoong and Siow Pooi Yuen @
Siew Pooi Yuen all of full age and of Malaysian Nationality
residing at No.67 Jalan Pasar Bharu, Pudu, Kuala Lumpur,
make oath and say as follows:-

In the
Federal Court
of Malaysia

No.16

Affidavit by
Appellants

25th May
1971
(continued)

1. We are the Respondents herein.
2. We crave leave to refer to the final judgment of the Federal Court given on 27th April, 1971 whereby the Federal Court allowed the Applicant's appeal, dismissed the Respondents' claim, gave judgment for the Appellant on its counterclaim and ordered and declared that the Appellant was entitled until February 28th, 1988 to remain in peaceful possession of the ground floor of the premises without let or hindrance by the Respondents or their successors in title so long as the Appellant paid rent at the rate reserved by their agreement in writing dated June, 1964. The Appellant was entitled to costs of the action and of the Appeal. 10
3. The Respondents are desirous of appealing to the Yang di-Pertuan Agong against the whole of the said judgment.
4. We are advised and we verily believe that the matter in dispute in the appeal amounts to or is of the value of more than \$5,000/-. The monthly rent of the ground floor of the premises is \$200/-. The building in question is four-storey. The value of the property is estimated at \$75,000/-. The ground floor alone is valued at \$30,000/-. The annual rental value of the property is \$7,200/-. The quit rent is \$209/- per year. The Respondents' claim in the action for double rental with effect from 1st December, 1966 to 16th November, 1970 amounted to \$9,500/-. The restriction imposed by the judgment of the Federal Court on the Respondents' right to take back the ground floor of the said premises for a period of nearly 17 years is estimated at more than \$20,000/-. 20 30
5. Alternatively we are advised that the appeal involves directly or indirectly claim or question to or respect in property of like amount or value.
6. In the further alternative we are advised and we verily believe that the case is from its nature fit one to appeal. 40
7. We undertake to abide by any order imposing the usual conditions for the grant of appeal.

Wherefore we pray for an order that conditional leave may be granted to us the Respondents

herein to appeal to His Majesty the Yang di-Pertuan Agong against the whole of the final judgment of the Federal Court dated the 27th April, 1971.

In the Federal Court of Malaysia

Affirmed at Kuala Lumpur)
this 25th day of May,)
1971 at 3.15 p.m.)

Sd: Siew Soon Wah
(Trustee)
Sd: Siew Soon Wah
Sd: Siow Pooi Yuen @
Siew Pooi Yuen

No.16
Affidavit by Appellants

Before me,

25th May
1971
(continued)

10 Sd: Ho Wai Kwong
Commissioner for Oaths,
Kuala Lumpur

I hereby certify that the above affidavit was read, translated and explained in my presence to the deponents who seemed perfectly to understand it declared to me that they did understand it and made their signatures in my presence.

Sd: Ho Wai Kwong
Commissioner for Oaths,
Kuala Lumpur.

20

Filed for and on behalf of the Respondents herein by Messrs. K.L. Devaser and Company, Advocates and Solicitors, Room 203, Second Floor, Asia Insurance Building, Klyne Street, Kuala Lumpur.

Filed this 26th day of May, 1971

Sd: Mokhtar Bin Haji Sidin
Deputy Registrar
Federal Court, Malaysia
Kuala Lumpur

In the
Federal Court
of Malaysia

NO. 17

ORDER GRANTING CONDITIONAL
LEAVE TO APPEAL TO HIS
MAJESTY THE YANG DI-PERTUAN
AGONG

No.17

Order granting
Conditional
Leave to
Appeal to His
Majesty the
Yang di-pertuan
Agong

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

Federal Court Civil Appeal No.119 of 1970

7th June
1971

B E T W E E N : YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm) Appellant

10

- and -

1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Respondents

(In the Matter of Civil Suit No.1506
of 1967 in the High Court in Malaya
at Kuala Lumpur

20

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Plaintiffs

30

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant

Coram: Ong Hock Thye, Chief Justice, High Court,
Malaya
Gill, Judge, Federal Court, Malaysia
Ali, Judge, Federal Court, Malaysia

IN OPEN COURT
THIS 7TH DAY OF JUNE, 1971

In the
Federal Court
of Malaysia

ORDER

No.17

10 UPON MOTION made unto Court this day by Mr. K.L. Devaser of Counsel for the Respondents in the presence of Mr. J.J. Puthuchery of Counsel for the Appellant AND UPON READING the Notice of Motion dated the 26th day of May 1971 and the Affidavit of Siew Soon Wah @ Siew Pooi Yoong as trustee, Siew Soon Wah @ Siew Pooi Yoong and Siew Pooi Yuen @ Siew Pooi Yuen the Respondents herein affirmed on the 25th day of May, 1971 and filed herein AND UPON HEARING Counsel as aforesaid IT IS ORDERED that leave be and is hereby granted to the Respondents to appeal to His Majesty the Yang di-Pertuan Agong against the Order of the Federal Court dated the 27th day of April, 1971 upon the following conditions:-

Order granting
Conditional
Leave to
Appeal to His
Majesty the
Yang di-Pertuan
Agong

7th June
1971
(continued)

20 (a) that the Respondents abovenamed do within three months from the date hereof enter into good and sufficient security to the satisfaction of the Chief Registrar, Federal Court, Malaysia in the sum of \$5,000/- (Dollars Five thousand only) for the due prosecution of the Appeal, and the payment of all such costs as may become payable to the Appellant abovenamed in the event of the Respondents abovenamed not obtaining an order granting them final leave to Appeal or of the Appeal being dismissed for non-prosecution or

30 of His Majesty the Yang di-Pertuan Agong ordering the Respondents abovenamed to pay the Appellant's costs of the Appeal as the case may be; and

(b) that the Respondents abovenamed do within the said period of three months take the necessary steps for the purpose of procuring the preparation of the Record and for the despatch thereof to England.

40 AND IT IS ORDERED that costs of this motion be costs in the cause.

GIVEN under my hand and the Seal of the Court this 7th day of June, 1971.

Sd: Mokhtar bin Haji Sidin
Deputy Registrar, Federal Court, Malaysia

In the
Federal Court
of Malaysia

NO. 18

ORDER GRANTING FINAL LEAVE
TO APPEAL TO HIS MAJESTY
THE YANG DI-PERTUAN AGONG

No.18

Order granting
Final Leave to
Appeal to His
Majesty the
Yang di-Pertuan
Agong

11th August
1971

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

Federal Court Civil Appeal No.119 of 1970

B E T W E E N : YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm) Appellant 10

- and -

1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Respondents

(In the Matter of Civil Suit No.1506
of 1967 in the High Court in Malaya
at Kuala Lumpur 20

BETWEEN: 1. SIEW SOON WAH @ SIEW POOI
YOONG as trustee
2. SIEW SOON WAH @ SIEW POOI
YOONG and
3. SIOW POOI YUEN @ SIEW POOI
YUEN all of No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur Plaintiffs 30

- and -

YONG TONG HONG No.61 Jalan
Pasar Bharu, Pudu, Kuala
Lumpur (sued as a firm)
Defendant)

Coram: Azmi, Lord President, Federal Court,
Malaysia
Suffian, Judge, Federal Court, Malaysia
Ali, Judge, Federal Court, Malaysia

IN OPEN COURT 40

THIS 16TH DAY OF AUGUST, 1971

ORDER

In the
Federal Court
of Malaysia

No.18

Order granting
Final Leave to
Appeal to His
Majesty the
Yang di-Pertuan
Agong

11th August
1971
(continued)

10 UPON MOTION made into Court this day by Mr. K.L. Devaser of Counsel for the Respondents in the presence of Mr. S.D.K. Peddie of Counsel for the Appellant AND UPON READING the Notice of Motion dated the 16th day of July 1971 and the Affidavit of Siew Soon Wah @ Siew Pooi Yoong as trustee, Siew Soon Wah @ Siew Pooi Yoong and Siow Pooi Yuen @ Siew Pooi Yuen the Respondents herein affirmed on the 8th day of July, 1971 and filed herein AND UPON HEARING Counsel as aforesaid IT IS ORDERED that final leave to appeal to His Majesty the Yang di-Pertuan Agong against the order of the Federal Court dated the 27th day of April, 1971 be and is hereby granted to the Respondents and that costs of this application and incidental thereto be costs in the cause.

GIVEN under my hand and the Seal of the Court this 16th day of August, 1971.

20

Sd: Mokhtar bin Haji Sidin

Deputy Registrar,
Federal Court,
Malaysia.

Exhibit
D.1

E X H I B I T S

EXHIBIT D.1

Translation
of Receipt
for Rent

TRANSLATION OF RECEIPT FOR RENT

4th January
1964

Translation

Rent Receipt

Received from Chop Yong Tong Hong ()
the sum of \$150/- (Dollars One hundred and fifty
only) being shop rent for one month from 1st
to 30th January (1964) in respect of ground floor
No.61 Yew Road, (Kuala Lumpur). This receipt
is issued as proof.

10

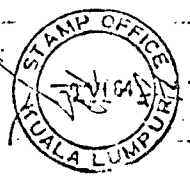
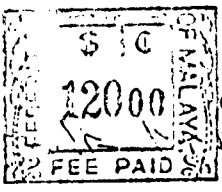
Dated this 4th day of January, 1964.

(sd) Soo Fai Receipt.

This is the True Translation of the
Original Document produced in
Serial No.607 of 1969.

Sd: Illegible.
Interpreter
Supreme Court
Kuala Lumpur
15/11/69.

20



Handwritten Chinese text at the top, including names like '林林' and '林林'.

Main body of handwritten Chinese text, likely a lease agreement or agreement of sale.

This Tenancy Agreement is made this 1st day of June 1964 BETWEEN Siew Kim Chong as Owner of House No. 61, Jalan Pasar Binnu, Fudu, Kuala Lumpur (hereinafter referred to as "The House Owner") of the first part and CHOP YONG TONG HONG also of No. 61 Jalan Pasar Binnu, Fudu, Kuala Lumpur (hereinafter referred to as "The Tenant") of the other party.

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS :-

In consideration of the sum of Dollars Eight thousand (\$8,000/-) only paid by the Tenant to the House Owner (the receipt of which sum the House Owner hereby acknowledges on the signing of this Agreement) the House Owner hereby rent to the Tenant the whole of the ground floor of No. 61 Jalan Pasar Binnu, Fudu, Kuala Lumpur, from the first day of June 1964 at a monthly rent of Dollars Two hundred (\$200/-) as long as the Tenant wishes to occupy.

The House Owner agrees with the Tenant that the rent of the ground floor of No. 61, Jalan Pasar Binnu, Fudu, Kuala Lumpur, shall not be increased except in the case of assessment increase. Such increase shall be calculated on the percentage.

Dated this 1st day of June 1964.

Signed by the House Owner
In the presence of
Signed by the Tenant in the presence of :-

1st June 1964
HONG YONG TONG
SIEW KIM CHONG and
Between Siew Kim Chong and
Yong Fong
Agreement

EXHIBIT AB.7

Exhibit
AB.7

LETTER FROM SIEW KIM CHONG
TO CHOP HONG TONG YONG

Letter from
Siew Kim
Chong to
Chop Hong
Tong Yong

A.R. REGISTERED

SIEW KIM CHONG,
NO.67, JALAN PASAR
BHARU, PUDU,
KUALA LUMPUR

9th April
1964

9th April 1964

10 Chop Hong Tong Yong,
No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur.

Dear Sir,

No: 61 Jalan Pasar Bharu, K.Lumpur

I hereby give you notice that your tenancy for the abovementioned premises will be terminated by 31st May, 1964.

I am prepared to offer you a fresh tenancy at the new rental of \$220.00 per month as from the 1st June, 1964.

20 If you accept my offer of a fresh tenancy under aforesaid new rental will you please sign on the attached copy of this letter and send to me.

Take notice that unless I receive the attached copy of this letter duly signed by you within ten (10) days from the receipt hereof, I take it that you do not wish to continue to the rent the abovesaid premises and you will deliver up vacant possession of the same to me on or before the 31st May, 1964.

Yours faithfully,

30 Sd: SIEW KIM CHONG

(Siew Kim Chong)

I accept

(Chop Hong Tong Yong)

Refer to the Agreement made on the 1st day of June 1964 which settles the issue.

Exhibit
AB.8

EXHIBIT AB.8

LETTER FROM P.C. AU-YONG & CO.
TO CHOP YONG TOONG FONG

Letter from
P.C. Au-Yong
& Co. to
Chop Tong
Toong Fong

P.C. AU-YONG & CO.

49 Klyne Street,
Kuala Lumpur,
Malaysia

4th October
1966

4th October, 1966

Chop Yong Toong Fong,
No.61 Jalan Pasar Bharu, (ground floor)
Kuala Lumpur.

10

Dear Sirs,

Re: Premises at No.61 Jalan Pasar
Bharu (ground floor)
Kuala Lumpur

We are instructed by Mr. Siew Kim Chong, the owner of the above premises, to and hereby do notify you that your existing tenancy of the ground floor of the above premises at \$200/- per month is hereby terminated on the 30th day of November, 1966, and that you are required to quit and vacate and deliver peaceful and vacant possession thereof to our client on the 30th day of November, 1966.

20

However, our client is prepared to grant you a new tenancy of the ground floor of the above premises at the new rental of \$300/- per month commencing on the 1st day of December, 1966.

If you desire to take up the new tenancy at \$300/- per month as on and from the 1st day of December, 1966, as aforesaid, please let us have your written confirmation within fourteen (14) days from the date hereof.

30

Yours faithfully,

Sd: P.C. AU-YONG & CO.

A.R. REGISTERED

EXHIBIT AB.9

Exhibit AB.9

LETTER FROM SKRINE & CO.
TO P.C. AU-YONG & CO.

Letter from
 Skrine & Co.
 to P.C. Au-Yong
 & Co.

SKRINE & CO.

17th October, 1966

CH/2/SKC/1998

P/KCK/8055/66

17th October
 1966

10 M/s. P.C. Au-Yong & Co.,
 Advocates & Solicitors,
 49, Klyne Street,
 Kuala Lumpur.

Dear Sirs,

re: Premises No.61, Jalan Pasar Bharu,
(ground floor) Kuala Lumpur

We have been instructed by Chop Yong Toong Fong to reply to your letter of the 4th October 1966.

20 Our client instruct us to state that your client does not appear to have disclosed to you the existence of an Agreement between our respective clients dated 1st June 1964. By the Agreement the area occupied by our clients is rented at a sum of \$200/- per month and it was agreed that the rent should not be increased except in the case of increase in assessment. If increase in assessment took place, the rent increase was to be calculated on the percentage. Having regard to this and to the fact that the Agreement provided that the tenancy was to continue as long as our clients wish to occupy the premises, it was clear that your client is not
 30 entitled to give the notice under reply nor to increase rent. We would suggest you obtain from your client a copy of the Agreement in question.

Yours faithfully,

Sd: SKRINE & CO.

Exhibit AB.10

EXHIBIT AB.10

Letter from
Skrine & Co.
to P.C. Au-
Yong & Co.

LETTER SKRINE & CO. TO
P.C. AU-YONG & CO.

12th December
1966

SKRINE & CO.,

12th December, 1966

CH/2/SKC/1998

P/KCK/8055/66

M/s. P.C. Au-Yong & Co.,
Advocates & Solicitors,
49 Klyne Street,
Kuala Lumpur

10

Dear Sirs,

re: Premises No.61 Jalan Pasar
Bharu, (ground floor)
Kuala Lumpur

We refer to our letter of the 17th October.
Our clients instruct us that your client called on
them with a demand for \$300/- rent. Our clients
offered \$200/- in accordance with the Agreement
dated 1st June 1964. Your client refused the offer.
We now enclose our cheque in your favour for \$200/-
representing the rent due by our clients for the
month of December 1966. Please acknowledge receipt.

20

Yours faithfully,

Sd: SKRINE & CO.

Encl.

Exhibit AB.11

EXHIBIT AB.11

Letter from
Skrine & Co.
to P.C. Au-
Yong & Co.

LETTER FROM SKRINE & CO. TO
P.C. AU-YONG & CO.

13th December
1966

SKRINE & CO.

CH/2/SKC/1998

P/KCK/8055/66

13th December, 1966

M/S. P.C. Au-Yong & Co.,
Advocates & Solicitors,
49 Klyne Street, Kuala Lumpur.

30

Dear Sirs,

re: Premises No.61 Jalan Pasar Bharu,
K. Lumpur

We refer you to our letter of the 12th December

and would advise that the correct name of our clients is Chop Yong Tong Hong and not Chop Yong Toong Fong as stated in your letter of the 4th October, 1966.

Yours faithfully,

Sd: SKRINE & CO.

EXHIBIT AB.12

LETTER FROM P.C. AU-YONG & CO.
TO SKRINE & CO.

10 P.C. AU-YONG & CO.

49 Klyne Street,
Kuala Lumpur, Malaysia

15th December, 1966

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
Kuala Lumpur.

Dear Sirs,

20

Re: Premises No.61 Jalan Pasar
Bharu (ground floor) K.Lumpur

We are in receipt of your letter of the 12th instant with enclosure.

Our client denies that there is any agreement subsisting between our client and yours. We would be grateful if you would let us have a copy of the alleged agreement dated 1st June 1964.

Your cheque being held in abeyance pending inspection of your client's alleged agreement.

Yours faithfully,

30

Sd: P.C. AU-YONG & CO.

Exhibit AB.11

Letter from
Skrine & Co.
to P.C. Au-
Yong & Co.

13th December
1966
(continued)

Exhibit AB.12

Letter from
P.C. Au-Yong
& Co. to
Skrine & Co.

15th December
1966

Exhibit AB.13

EXHIBIT AB.13

Letter from
Skrine & Co. to
P.C. Au-Yong
& Co.

LETTER FROM SKRINE & CO. TO
P.C. AU-YONG & CO.

SKRINE & CO.

20th December, 1966

20th December
1966

PC/1/SK0/1998

P/KOK/8055/66

M/S. P.C. Au-Yong & Co.,
Advocates & Solicitors,
49 Klyne Street,
Kuala Lumpur

10

Dear Sirs,

re: Premises No.61 Jalan Pasar
Bharu, (ground floor) Kuala
Lumpur

We thank you for your letter of the 15th and
enclose as requested a photostat copy of the
Agreement.

Yours faithfully,

Sd: SKRINE & CO.

20

Exhibit AB.14

EXHIBIT AB.14

Letter from
P.C. Au-Yong
& Co. to
Skrine & Co.

LETTER FROM P.C. AU-YONG & CO.
TO SKRINE & CO.

P.C. AU YONG- & CO.

49 Klyne Street,
Kuala Lumpur, Malaysia

30th December
1966

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
Kuala Lumpur.

30th December, 1966

Dear Sirs,

30

Re: Premises No.61 Jalan Pasar Bharu,
(ground floor) Kuala Lumpur

We refer you to your letter of the 20th instant.

Our client denies the execution of the Agreement alleged to be signed by him and dated 1st June, 1964. It is completely false that your client had a deposit of \$8,000/- with our client and so are all the other allegations contained in paragraphs 1 and 2 therein.

Exhibit AB.14

The alleged Agreement is a forgery and our client is taking steps to launch criminal proceedings.

Letter from
P.C. Au-Yong
& Co. to
Skrine & Co.

We request you to arrange for an appointment for us and our client to inspect the original copy of the alleged Agreement at your office as early as possible.

30th December
1966
(continued)

10

Please let us hear from you early.

Yours faithfully,

Sd: P.C. AU-YONG & CO.

EXHIBIT AB.15

Exhibit AB.15

LETTER FROM SKRINE & CO. TO
P.C. AU-YONG & CO.

SKRINE & CO.

6th January, 1967

PC/1/SKC/1998

P/KCK/8055/66

Letter from
Skrine & Co.
to P.C.
Au-Yong & Co.

20

M/s. P.C. Au-Yong & Co.,
Advocates & Solicitors,
49 Klyne Street,
Kuala Lumpur

6th January
1967

Dear Sirs,

re: Premises No.61 Jalan Pasar Bharu
(ground floor) K.L.

We thank you for your letter of the 30th December. The original Agreement is available for inspection in our office at any time suitable to your client and yourselves.

30

Yours faithfully,

Sd: SKRINE & CO.

Exhibit AB.16

EXHIBIT AB.16

Letter from
P.C. Au-Yong
& Co. to
Skrine & Co.

18th January
1967

LETTER FROM P.C. AU-YONG & CO.
TO SKRINE & CO.

P.C. AU-YONG & CO.

49 Klyne Street,
Kuala Lumpur, Malaysia

18th January, 1967

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
Kuala Lumpur

10

Dear Sirs,

Re: Premises No.61 Jalan Pasar
Bharu (ground floor) Kuala
Lumpur

We refer you to your letter of the 12th
December, 1966.

We return you herewith your cheque No.178270
dated 12-12-1966 for the sum of \$200/-.

Kindly acknowledge receipt.

20

We no longer act in the matter.

Yours faithfully,

Sd: P.C. AU-YONG & CO.

Encl:

Exhibit AB.17

EXHIBIT AB.17

Letter from
Mah King Hock
& Co. to
Skrine & Co.

25th January
1967

LETTER FROM MAH KING HOCK & CO.
TO SKRINE & CO.

MAH KING HOCK & CO.

7 Jalan Pintas,
(Off Klyne Street)
Kuala Lumpur

30

25th January 1967

Messrs. Skrine & Co.,
Advocates & Solicitors,
Kuala Lumpur

Exhibit AB.17

Dear Sirs,

Re: Premises No.61 Jalan Pasar
Bharu, (ground floor) Kuala Lumpur

Letter from
Mah King Hock
& Co. to
Skrine & Co.

25th January
1967
(continued)

We have been consulted by Mr. Siew Kim Chong in
relation to the aforesaid matter.

10 Our client denies that he signed the said agree-
ment now in your client's possession.

Our client intends to report the matter to the
police as he instructs us that your client forged his
signature on the said agreement.

Yours faithfully,
Sd: MAH KING HOCK & CO.

c.c.

Mr. Siew Kim Chong,
61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur.

20

EXHIBIT AB.18

Exhibit AB.18

LETTER FROM SKRINE & CO.
TO MAH KING HOCK & CO.

SKRINE & CO.

27th January, 1967

129/67/240
P/KCK/8055/66

Letter from
Skrine & Co.
to Mah King
Hock & Co.

27th January
1967

M/s. Mah King Hock & Co.,
Advocates & Solicitors,
7 Jalan Pintas,
Kuala Lumpur

30

Dear Sirs,

Re: Premises No.61 Jalan Pasar Bharu,
(Ground floor), Kuala Lumpur

We refer to your letter of the 25th. Your client
is at liberty to take such action as he sees fit as our
client maintains that the agreement in question was
signed by your client.

Yours faithfully,
Sd: SKRINE & CO.

Exhibit AB.19

EXHIBIT AB.19

Letter from
Skrine & Co.
to Mah King
Hock & Co.

7th March
1967

LETTER FROM SKRING & CO.
TO MAH KING HOCK & CO.

SKRINE & CO.

7th March, 1967

129/67/240

P/KOK/8055/66

M/s. Mah King Hock & Co.,
Advocates & Solicitors,
7 Jalan Pintas,
Kuala Lumpur

10

Dear Sirs,

re: Premises No.61 Jalan Pasar
Bharu, (ground floor) Kuala Lumpur

Please note that we are withholding with us
all monthly rents due to date. This would be
paid to your client whenever he is prepared to
receive it.

Yours faithfully,

SD: SKRINE & CO.

20

Exhibit AB.20

EXHIBIT AB.20

Letter from
Mah & Kok to
Skrine & Co.

29th March
1967

LETTER FROM MAH & KOK
TO SKRINE & CO.

MAH & KOK

7 Jalan Pintas,
(Off Klyne Street)
Kuala Lumpur

29th March 1967

Dear Sirs,

Re: Siew Kim Chong - Premises No.61
Jalan Pasar Bharu, (ground floor)
Kuala Lumpur

30

We thank you for your letter dated 7th March,
1967.

We are no longer acting for the aforesaid.

Yours faithfully,

Sd: MAH & KOK

Messrs. Skrine & Co.,
Advocates & Solicitors,
Kuala Lumpur

Exhibit AB.20

c.c.
Mr. Siew Kim Chong,
61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur.

Letter from
Mah & Kok to
Skrine & Co.

29th March
1967
(continued)

EXHIBIT AB.21

Exhibit AB.21

10

LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

Letter from
Shook Lin &
Bok to
Skrine & Co.

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur,
Malaysia

4th April, 1967

Dear Sirs,

20

Re: Chop Yong Toong Fong - Premises
No.61 Jalan Pasar Bharu, (Ground
Floor) Kuala Lumpur

We act for Mr. Siew Kim Chong the landlord of the
above premises.

2. Our client says that you have in your possession
the original agreement purported to have been made
between your client Chop Yong Toong Fong and our client.

30

3. Our client denies that the signature in the agree-
ment is his and we would appreciate it very much if you
would consent to have the said agreement examined by the
Department of Chemistry, Jalan Sultan, Petaling Jaya,
Selangor.

Yours faithfully,
Sd: SHOOK LIN & BOK

Messrs. Skrine & Co., Advocates & Solicitors, Straits
Trading Building, 4 Leboh Pasar Besar, Kuala Lumpur

c.c. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur

Exhibit AB.22

EXHIBIT AB.22

Letter from
Skrine & Co. to
Shook Lin & Bok

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

6th April
1967

SKRINE & CO.

6th April, 1967

HFY/9091/SKC/CYTH
P/KCK/8055/66

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur.

10

Dear Sirs,

Re: Chop Yong Toong Fong - Premises
No.61 Jalan Pasar Bharu (Ground
Floor) Kuala Lumpur

We thank you for your letter of the 4th and
confirm the contents of your second paragraph.

As regards of your last paragraph, we should
be obliged if you would advise us in what way the
agreement is to be examined. If it is to be
examined for the purpose of determining whether
your client's signature has been forged, please
advise against what document a comparison would
be made. We would point out that your client
has made the same allegation through two previous
solicitors, both of them seem to cease to act for
him.

20

Yours faithfully,

Sd: SKRINE & CO.

EXHIBIT AB.23

Exhibit AB.23

LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

Letter from
Shook Lin &
Bok to
Skrine & Co.

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

19th April
1967

19th April, 1967

Dear Sirs,

10

Chop Yong Toong Fong
Re: Premises No.61 Jalan Pasar Bharu,
(Ground Floor) Kuala Lumpur

We thank you for your letter dated 6th April 1967.

2. As to paragraph 2 of the same we would advise that the signature in the Agreement be examined against our client's Bank Specimen Signature.

Yours faithfully,

Sd: SHOOK LIN & BOK

20

Messrs. Skrine & Co.,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur.

c.c. Mr. Siew Kim Chong, 67 Jalan Yew, Pudu,
Kuala Lumpur

c.c. The Manager, The Bank of Canton Ltd.,
Pudu Lane, Kuala Lumpur.

Exhibit AB.24

EXHIBIT A.B.24

Letter from
Skrine & Co.
to Shook Lin
& Bok

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

SKRINE & CO.

21st April, 1967
RPY/9091/SKC/CYTH
P/KCK/8055/66

21st April
1967

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

10

Dear Sirs,

re: Chop Yong Toong Fong

We thank you for your letter of the 19th.
Would you please advise on what date your client's
specimen signature was submitted to his Bank in
order that it can be ascertained that both
signatures were given at about the same time.

Yours faithfully,

Sd: SKRINE & CO.

20

Exhibit AB.25

EXHIBIT AB.25

Letter from
Shook Lin &
Bok to
Skrine & Co.

LETTER SHOOK LIN & BOK
TO SKRINE & CO.

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia
28th April 1967

28th April
1967

Dear Sirs,

Re: Chop Yong Toong Fong, 61 Jalan
Pasar Bharu, (Ground Floor)
Kuala Lumpur

30

With reference to your letter dated 21st April,
1967, we are pleased to inform you that our client's

account with the Bank of Canton Ltd., Pudu Street was first opened on 19th December 1959.

Exhibit AB.25

2. Please confirm your consent to have the signature in the purported agreement examined by the competent body as referred to in our letter dated 4th April 1967.

Letter from Shook Lin & Bok to Skrine & Co.

Yours faithfully,

28th April 1967 (continued)

Sd: SHOOK LIN & BOK

10 Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur

c.c. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur

c.c. The Manager, The Bank of Canton Ltd.,
Pudu Street, Kuala Lumpur

EXHIBIT AB.26

Exhibit AB.26

20 LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

Letter from Shook Lin & Bok to Skrine & Co.

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

11th May 1967

Dear Sirs,

Re: Chop Yong Toong Fong, 61 Jalan Pasar Bharu, (Ground Floor) Kuala Lumpur

30 We refer to the above matter and to our letter dated 28th April 1967.

2. We would be obliged to receive an early reply from you.

Yours faithfully,

Sd: SHOOK LIN & BOK

Exhibit AB.26

Letter from
Shook Lin &
Bok to
Skrine & Co.

11th May
1967
(continued)

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
4, Leboh Pasar Besar,
Kuala Lumpur

cc. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur.

Exhibit AB.27

Letter from
Skrine & Co.
to Shook
Lin & Bok

15th May
1967

EXHIBIT AB.27

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

10

SKRINE & CO.

15th May, 1967

HFY/9091/SKC/HYTH

P/KCK/8055/66

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

Dear Sirs,

re: Chop Yong Toong Fong

20

We thank you for your letter of the 11th.
The Position is our client is not opposed to
having the agreement examined but he is collect-
ing other signatures of your client in order that
there should be further documents available for
examination purposes.

Yours faithfully,

Sd: SKRINE & CO.

EXHIBIT AB.28

Exhibit AB.28

LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

Letter from
Shook Lin
& Bok to
Skrine & Co.

SHOOK LIN & BOK

P.O. Box 766

Lee Wah Bank Building,
Kuala Lumpur, Malaysia

19th May
1967

Dear Sirs,

19th May, 1967

Re: Chop Yong Toong Fong

10 Since our letter dated 28th April 1967 and our reminder of the 11th May 1967, we have to acknowledge with thanks your letter of the 15th May 1967.

2. As your client is not opposed to have the agreement examined and since we only asked for the original agreement we would be pleased if you would let us have the same.

Yours faithfully,

Sd: SHOOK LIN & BOK

20 Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur

cc. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur

Exhibit AB.29

EXHIBIT AB.29

Letter from
Skrine & Co.
to Shook Lin
& Bok

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

26th May
1967

SKRINE & CO.

26th May, 1967

HFK/9091/SKS/CYTF

P/KCK/8055/66

Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

10

Dear Sirs,

re: Chop Yong Toong Fong

We thank you for your letter of the 19th.
In view of the serious allegations made against
our client, it is obvious that there should be
as many specimens of your client's signature as
possible made available for the purpose of
comparison. All our client is doing is
collecting such specimens.

20

Yours faithfully,

Sd: SKRINE & CO.

Exhibit AB.30

EXHIBIT AB.30

Letter from
Shook Lin
& Bok to
Skrine & Co.

LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

29th May
1967

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

29th May, 1967

30

Dear Sirs,

Re: Chop Yong Toong Fong

We thank you for your letter dated 26th May
1967.

2. We refer you to our letter dated 4th April 1967 in which we stated that our client that the signature in the purported agreement is his.

Exhibit AB.30

3. All we want to know is to verify the truth or falsity of the signature.

Letter from Shook Lin & Bok to Skrine & Co.

4. Accordingly we trust you would advise your client and let us have the agreement for examination.

29th May 1967 (continued)

10 5. If your client is so sure that the signature in the agreement is our client's it will be to his advantage if the document is forwarded for examination.

6. We trust you would instruct your client to have this matter settled once and for all.

Yours faithfully,

Sd: SHOOK LIN & BOK

Messrs. Skrine & Co.,
Straits Trading Building,
4 Leboh Pasar Bharu,
Kuala Lumpur.

20 c.c. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur

EXHIBIT AB.31

Exhibit AB.31

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

SKRINE & CO.

1st June, 1967
HFY/9091/SKS/CYTF
P/KCK/8055/66

Letter from Skrine & Co. to Shook Lin & Bok

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

1st June 1967

30 Dear Sirs,

re: Chop Yong Toong Fong

We thank you for your letter of the 29th May. Your client's aim and ours is the same namely whether or not the signature is forged. The only difference

Exhibit AB.31

Letter from
Skrine & Co.
to Shook Lin
& Bok

1st June
1967
(continued)

between our respective clients' points of view seems to be as to the degree of comparison which the document examiner should make. Your client seems to wish to limit the comparison as much as possible whereas our client is anxious that the examiner should be given every opportunity of coming to a correct finding. It seems to us our client's approach is the more correct one.

Yours faithfully,

Sd: SKRINE & CO.

10

Exhibit AB.32

Letter from
Skrine & Co.
to Shook Lin
& Bok

5th June
1967

EXHIBIT AB.32LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

SKRINE & CO.

5th June, 1967

HFY/9091/SKS/CYTF
P/KCK/8055/66

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

20

Dear Sirs,

re: Chop Yong Toong Fong

Further to our previous correspondence our client has now delivered to us four letters dated the 9th April 1964 all signed by your client and dealing with the rents of Nos.61 and 61B Jalan Pesar Bharu. These letters were signed at about the same time as the Agreement on which our client relies and which your client says it is a forgery. Our client wishes all these four letters to be sent to the document examiner for comparison purposes together with the Bank's specimen signature and the Agreement.

30

Yours faithfully,

Sd: SKRINE & CO.

EXHIBIT AB.33

Exhibit AB.33

LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

Letter from
Shook Lin
& Bok to
Skrine & Co.

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

14th June
1967

14th June 1967

Dear Sirs,

10

Re: Chop Yong Toong Fong

We thank you for your letter dated 5th June 1967,
the contents of which are noted.

2. We would be obliged if you would have the letters
and the original Agreement sent to us so that we would
send your documents together with the Bank's specimen
signature to the Department of Chemistry for
examination.

Yours faithfully,

Sd: SHOOK LIN & BOK

20

Messrs. Skrine & Co.,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur.

c.c. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur.

Exhibit AB.34

EXHIBIT AB.34

Letter from
Skrine & Co.
to Shook Lin
& Bok

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

SKRINE & CO.

16th June, 1967

16th June
1967

HFY/9091/SKS/CYTF
P/KCK/8055/66

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

10

Dear Sirs,

re: Chop Yong Toong Fong

We thank you for your letter of the 14th. We
now enclose the following documents:-

1. A stamped copy of the Tenancy Agreement made
between your client and our client dated 1st
June 1964.
2. The original and copy of a letter written by
your client to Madam Hoh Ooi Lang dated 9th
April, 1964 in respect of premises No.61B,
Jalan Pasar Bharu, Kuala Lumpur. 20
3. The original and copy of a letter written by
your client to our client dated 9th April 1964
in respect of premises No.61 Jalan Pasar
Bharu, Kuala Lumpur.

Please let us have a copy of your letter to
the document examiner.

Yours faithfully,

Sd: SKRINE & CO.

30

Encl.

EXHIBIT AB.35

LETTER FROM SHOOK LIN & BOK
TO THE DOCUMENT EXAMINER,
DEPARTMENT OF CHEMISTRY

SHOOK LIN & BOK

P.O. Box 766,
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

22nd June 1967

Exhibit AB.35

Letter from
Shook Lin &
Bok to
Document
Examiner,
Department of
Chemistry

22nd June
1967

10 Dear Sir,

Re: Tenancy Agreement

We are acting for one of the parties to the purported Agreement. There exists a dispute as to the authenticity of the landlord's signature in the said Agreement purported to have been made on the 1st day of June 1964. The landlord's name is Siew Kim Chong.

20 2. We would be much obliged if you would give us a report whether the signature of the landlord in the Agreement is that of the landlord's or otherwise.

3. We enclose herewith for examination the following documents:-

- (a) the original Agreement dated 1st June 1964;
- (b) the original and copy of a letter dated 9th April 1964 addressed to Madam Hoh Ooi Lang and signed by the said Siew Kim Chong;
- (c) the original and copy of a letter dated 9th April 1964 addressed to Chop Hong Tong Yong and signed by the said Siew Kim Chong;
- 30 (d) the landlord's Bank specimen signature.

4. We undertake to pay the necessary fee in respect of the above matter.

5. Kindly let us have the report at your earliest convenience and return the above documents on completion of the examination.

Yours faithfully,

Sd: SHOOK LIN & BOK

The Document Examiner,
Department of Chemistry, Jalan Sultan, Petaling Jaya.

Exhibit AB.36

EXHIBIT AB.36

Letter from
Shook Lin
& Bok to
Chop Yong
Toong Fong

LETTER FROM SHOOK LIN & BOK
TO CHOP YONG TOONG FONG

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

26th July
1967

26th July 1967

Dear Sirs,

Chop Yong Toong Fong
61 Jalan Pasar Bharu, Kuala Lumpur
Re: Arrears of Rent

10

We act for Mr. Siew Kim Chong the landlord of the abovenamed premises of which you are the tenant.

2. We are instructed that you are owing our client the sum of \$1,600/- being rent for the months of December 1966, January, February, March, April, May, June and July 1967.

3. We are further instructed to give you notice which we hereby do that unless the said sum is paid to our client or to us as his Solicitors within five days from the date hereof, our instructions are to commence legal proceedings against you for the recovery of the same without further reference.

20

4. Take notice that the said sum of \$1,600/- at \$200/- per month rental due to our client is demanded from you without prejudice to our client's former solicitors' letter dated 4th October 1966 to increase the present rental from \$200/- to \$300/- per month.

30

Yours faithfully,

Sd: SHOOK LIN & BOK

Chop Yong Toong Fong,
61 Jalan Pasar Bharu,
(Ground Floor)
Kuala Lumpur

c.c. By Ordinary Post

c.c. Mr. Siew Kim Chong, 67 Jalan Pasar Bharu,
Kuala Lumpur

c.c. Messrs. Skrine & Co., Advocates & Solicitors,
Straits Trading Building, 4 Leboh Pasar Besar,
Kuala Lumpur

40

EXHIBIT AB.37

LETTER FROM SKRINE & CO. TO
SHOOK LIN & BOK

28th July, 1967

HFY/9091/SKS/CYTF
P/KCK/8055/66

Exhibit AB.37

Letter from
Skrine & Co.
to Shook Lin
& Bok

28th July
1967

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur.

10

Dear Sirs,

re: Premises No.61 Jalan Pasar Bahru
Kuala Lumpur - Chop Yong Tong Hong

We refer to your letter of the 26th July. On the
7th March 1967 we wrote to your client's former
solicitors pointing out that we hold with us the
various outstanding rentals at the rate of \$200/- per
month which would be paid over to your client at any
time your client wanted them. In view of your demand
dated 26th July, we enclose our cheque in your favour
to cover the outstanding rents.

20

We note that we have not yet received from you a
copy of your letter to the Document Examiner and would
refer you to our last paragraph of our letter of the
16th June.

Yours faithfully,

Sd: SKRINE & CO.

Enc. Cheque \$1,600/-

Exhibit AB.38

EXHIBIT AB.38

Letter from
K.L. Devaser
& Co. to
Skrine & Co.

6th October
1967

LETTER FROM K.L. DEVASER & CO.
TO SKRINE & CO.

K.L. DEVASER & CO.

Room 203,
Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

6th October, 1967

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
Kuala Lumpur

10

Dear Sirs,

61 Jln. Pasar Bahru, K.L.
Re: Chop Yong Toong Fong

We are instructed by Mr. Siew Pooi Yoong and
2 others the sons of Mr. Siew Kim Chong, the
present registered proprietors of the above land
to file an ejectment suit against the tenant your
client.

20

Please let us know if you have authority to
accept service of the Writ of Summons.

We shall appreciate your early reply.

Yours faithfully,

Sd: K.L. DEVASER & CO.

c.c. to clients

EXHIBIT AB.39

Exhibit AB.39

LETTER FROM SKRINE & CO.
TO K.L. DEVASER & CO.

Letter from
 Skrine & Co.
 to K.L.
 Devaser & Co.

9th October, 1967

KLD/SH/SPY/1183/67
 P/CKC/8055/66

9th October
 1967

M/s. K.L. Devaser & Co.,
 Advocates & Solicitors,
 Asia Insurance Building,
 Jalan Klyne,
 Kuala Lumpur

10

Dear Sirs,

re: Chop Yong Toong Fong - 61 Jalan
Pasar Bahru, K.L.

We thank you for your letter of the 6th. Before you issue proceedings, you might like to investigate the past history of this matter from your client's point of view. The history is as follows :-

20

(a) On the 1st June 1964 an agreement was entered into between Mr. Siew Kim Chong and our client relating to the tenancy of the premises. On the 4th October 1966, M/s. P.C. Au-Yong & Co. gave notice to our client to quit the premises. Our client refused.

(b) On the 25th January 1967, M/s. Mah King Hock & Co. took the matter over from the former solicitors and made allegations that the agreement entered into had been forged.

30

(c) On the 4th April 1967, M/s. Shook Lin & Bok took over from the former solicitors and also alleged that the agreement was forged as a result of which the agreement was by mutual consent sent to the document examiner for inspection on the 22nd June 1967. His report is still awaited.

From the foregoing, you will see that you are the fourth solicitors to be consulted in an endeavour to obtain from our client possession of the premises. We would most certainly bring all these facts out in any action which might be filed and they form a fair indication of the merit of your client's claim.

40

Yours faithfully,
 Sd: SKRINE & CO.

Exhibit AB.40

EXHIBIT AB.40

Letter from
K.L. Devaser
& Co. to
Skrine & Co.

LETTER FROM K.L. DEVASER & CO.
TO SKRINE & CO.

11th October
1967

K.L. DEVASER & CO.

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

11th October, 1967

Messrs. Skrine & Co.,
Advocates & Solicitors,
Kuala Lumpur

10

Dear Sirs,

re: Chop Yong Toong Fong -
61 Jalan Pasar Bahru, K.L.

We thank you for your letter dated the 9th instant.

We only wanted to know if you have authority to accept service of the writ of summons herein.

20

Please let us know if you will accept service.

Yours faithfully,

Sd: K.L. DEVASER & CO.

Exhibit AB.41

EXHIBIT AB.41

Letter from
Skrine & Co.
to K.L.
Devaser & Co.

LETTER FROM SKRINE & CO.
TO K.L. DEVASER & CO.

12th October
1967

12th October, 1967
KLD/MH/SPY/1183/67
P/KCK/8055/66

M/s. K.L. Devaser & Co.,
Advocates & Solicitors,
Asia Insurance Building,
Jalan Klyne, Kuala Lumpur

30

Dear Sirs, re: Chop Yong Toong Fong No.61
Jalan Pasar Bahru, K.L.

We thank you for your letter of the 11th instant. We have no authority to accept service.

Yours faithfully,
Sd: SKRINE & CO.

EXHIBIT AB.42

Exhibit AB.42

LETTER FROM K.L. DEVASER & CO.
TO YONG TONG HONG

Letter from
K.L. Devaser
& Co. to Yong
Tong Hong

K.L. DEVASER & CO.

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

21st October
1967

21st October, 1967

10 Messrs. Yong Tong Hong,
No.61 Jalan Pasar Bharu,
Pudu,
Kuala Lumpur.

Dear Sirs,

Re: Premises No.61 Jalan Pasar Bharu,
Pudu, Kuala Lumpur

20 We are to inform you that since 19.9.1967 Messrs.
Siew Soon Wah alias Siew Pooi Yoong as trustee, Siew
Soon Wah alias Siew Pooi Yoong and Siew Pooi Yuen alias
Siew Pooi Yuen are the registered proprietors of the land
comprised in Certificate of Title No.17562 and the house
thereon known as No.61 Jalan Pasar Bharu, Pudu, Kuala
Lumpur.

They have instructed us to take ejectment proceed-
ings against you in pursuance to the notice to quit
dated 11.10.1967 sent by their predecessor in title and
served on you on or about 17.10.1967.

Please let us know if you have any Solicitor who
will accept service of the Writ of Summons.

30 We shall appreciate an early reply.

Yours faithfully,

Sd: K.L. DEVASER & CO.

c.c. to clients.

Exhibit AB.43

EXHIBIT AB.43

Letter from
K.L. Devaser
& Co. to Yong
Tong Hong

23rd October
1967

LETTER FROM K.L. DEVASER & CO.
TO YONG TONG HONG

K.L. DEVASER & CO.

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

23rd October, 1967

Messrs. Yong Tong Hong,
No.61 Jalan Pasar Bharu,
Pudu,
Kuala Lumpur.

10

Dear Sirs,

Re: Premises No.61 Jalan Pasar
Bharu, Pudu, Kuala Lumpur

We refer you to paragraph 2 of our letter
dated the 21st instant and to inform you that the
notice to quit was dated 11.10.1966 and served on
you on or about 17.10.1966.

20

We regret the error.

Yours faithfully,

Sd: K.L. DEVASER & CO.
c.c. to clients.

EXHIBIT AB.44

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

22nd November, 1967
HPY/9091/SKS/CYTF
P/KCK/8055/66

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Lee Wah Bank Building,
Kuala Lumpur

10

Dear Sirs,

re: Premises No.61 Jalan Pasar Bharu,
K.L. - Chop Yong Tong Hong

We refer you to previous correspondence relating to the examination of the agreement dated 1st June 1964. Would you please take steps to have the examination completed and our client's documents and a copy of the examiner's report forwarded to us as early as possible. They are urgently required in connection with proceedings now pending in the High Court.

20

Yours faithfully,
Sd: SKRINE & CO.

EXHIBIT AB.45

LETTER SHOOK LIN & BOK TO
SKRINE & CO.

SHOOK LIN & BOK

P.O. Box 766
Bangunan Lee Wah Bank,
Kuala Lumpur, Malaysia
23rd November, 1967

30

Dear Sirs,

Re: 61 Jalan Pasar Bahru, Kuala Lumpur

We thank you for your letter dated 22nd November 1967.

Exhibit AB.44

Letter from
Skrine & Co.
to Shook
Lin & Bok

22nd November
1967

Exhibit AB.45

Letter from
Shook Lin
& Bok to
Skrine & Co.

23rd November
1967

Exhibit AB.45

Letter from
Shook Lin
& Bok to
Skrine & Co.

23rd November
1967
(continued)

We are no more acting for Mr. Siew Kim Chong and we have been instructed by the same to withdraw the said application. The application was accordingly withdrawn on our former client's instructions.

Yours faithfully,

Sd: SHOOK LIN & BOK

M/s. Skrine & Co.,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur

10

Exhibit AB.46

Letter from
Skrine & Co.
to Shook
Lin & Bok

28th November
1967

EXHIBIT AB.46

LETTER FROM SKRINE & CO.
TO SHOOK LIN & BOK

SKRINE & CO.

28th November, 1967

HFY/9091/SKS/CYTF
P/KCK/8055/66

M/s. Shook Lin & Bok,
Advocates & Solicitors,
Bangunan Lee Wah Bank,
Kuala Lumpur

20

Dear Sirs,

re: 61 Jalan Pasar Bahru,
Kuala Lumpur

We thank you for your letter of the 23rd November. As you withdrew the application would you please take immediate steps to return to us the original documents which belong to our client which we sent to you.

30

Yours faithfully,

Sd: SKRINE & CO.

EXHIBIT AB.47

Exhibit AB.47

LETTER FROM SHOOK LIN & BOK
TO SKRINE & CO.

Letter from
Shook Lin
& Bok to
Skrine & Co.

SHOOK LIN & BOK

P.O. Box 766
Lee Wah Bank Building,
Kuala Lumpur, Malaysia

30th November
1967

30th November, 1967

Dear Sirs,

10

Re: 61 Jalan Pasar Bahru, Kuala Lumpur

We thank you for your letter dated 28th November 1967.

2. We return herewith your client's documents as listed in your letter dated 16th June 1967.

(1) The stamped copy of the Tenancy Agreement dated 1st June 1964.

(2) The original and copy of a letter dated 9th April, 1964 to Madam Hoh Ooi Lang.

20

(3) The original and copy of a letter dated 9th April 1964 to Chop Hong Tong Yoong.

3. Kindly acknowledge receipt.

Yours faithfully,

Sd: SHOOK LIN & BOK

M/s. Skrine & Co.,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur

Exhibit AB.48

EXHIBIT AB.48

Letter from
K.L. Devaser
& Co. to
Skrine & Co.

27th August
1968

LETTER FROM K.L. DEVASER & CO.
TO SKRINE & CO.

K.L. DEVASER & CO.

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

27th August, 1968

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
Kuala Lumpur

10

Dear Sirs,

Re: K.L. High Ct. Civil Suit
No.1506/67 Siew Soon Wah @
Siew Pooi Yoong 2 Ors. vs.
Yong Tong Hong

We are to inform you that in our view the
following points of law will substantially dispose
of the whole action herein:-

20

- (a) Whether the agreement dated 1.6.1964 relied upon by the defendant is valid in law.
- (b) Whether the notice to quit dated 4.10.1966 terminated the tenancy of the defendant.

Please let us know if you will agree with us. If you agree, we will file the required motion that by consent this case may be set down for hearing and disposed of before the trial.

If you do not agree, we will apply to the Court for the necessary Order.

30

We shall be grateful for your early reply.

Yours faithfully,
Sd: K.L. DEVASER & CO.

c.c. Mr. Siew Soon Wah @ Siew Pooi Yoong.

EXHIBIT AB.49

Exhibit AB.49

LETTER FROM SKRINE & CO.
TO K.L. DEVASER & CO.

Letter from
Skrine & Co.
to K.L.
Devaser & Co.

SKRINE & CO.

13th September, 1968

KLD/SM/S/1506/67
TSC/VW/8055/66

13th September
1968

10 K.L. Devaser & Co.,
Advocates & Solicitors,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur

Dear Sirs,

Re: K.L. High Court Civil Suit No.1506/67

20 In reply to your letter on the disposal of this case on preliminary points of law, we regret to inform you that we are unable to agree that this action can be substantially disposed of on the construction of the validity of the agreement dated 1st June, 1964 and the Notice of Quit dated 4th October, 1966.

As the authenticity of the agreement of 1st June, 1964 is challenged, we intend to prove the validity of this document by all methods available to our client and unless we can agree on the facts leading to the signing of this document (which is unlikely) we do not think the case can be dealt with as suggested.

Yours faithfully,

Sd: SKRINE & CO.

Exhibit AB.50

EXHIBIT AB.50

Letter from
Skrine & Co.
to K.L. Devaser
& Co.

LETTER FROM SKRINE & CO.
TO K.L. DEVASER & CO.

KLD/SM/S/1506/67
P/DY/8055/66

18th November
1968

18th November, 1968

Messrs. K.L. Devaser & Co.,
Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur.

10

Dear Sirs,

K.L. High Court Civil Suit
No.1506 of 1967

We refer to our telephone conversation on the 16th instant. We confirm having suggested to you that steps should be taken to have the question of fact, as to whether the documents our clients rely on is a forgery or not, settled if possible prior to the hearing of the action. We think you will agree that the only way of having a document examined is to send it to the Department of Chemistry. We are inclined to doubt that the Department of Chemistry will assist unless a Court Order is obtained and we are considering an application to the Court to have the document refer to the Department. Perhaps you would let us have your views.

20

Yours faithfully,

Sd: SKRINE & CO.

30

EXHIBIT AB.51

Exhibit AB.51

LETTER FROM K.L. DEVASER & CO.
TO SKRINE & CO.

Letter from
K.L. Devaser
& Co. to
Skrine & Co.

K.L. DEVASER & CO.

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

18th November
1968

18th November, 1968

10 Messrs. Skrine & Co.,
Advocates & Solicitors,
Kuala Lumpur

Dear Sirs,

Re: K.L. High Ct. C.S. No.1506/67
Siew Soon Wah & 2 Ors. vs.
Yong Tong Hong

20 With reference to the telephone conversation last
Saturday between your Mr. Peddie and our Mr. K.L.
Devaser, we are to inform you that we have no objection
to your submitting the document alleged to have been
executed by our client's father to the chemist for his
examination and report provided it is understood that
the plaintiffs reserve the right to challenge the report
in Court at the hearing, if necessary. The cost of such
examination and report will have to be borne by your
client.

Yours faithfully,

Sd: K.L. DEVASER & CO.

c.c. to clients.

Exhibit AB.52

EXHIBIT AB.52

Letter from K.L.
Devaser & Co.
to Skrine & Co.

LETTER FROM K.L. DEVASER & CO.
TO SKRINE & CO.

K.L. DEVASER & CO.

19th November
1968

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

19th November, 1968

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
4 Leboh Pasar Besar,
Kuala Lumpur

10

Dear Sirs,

K.L. High Court Civil Suit
No.1506 of 1967

In reply to your letter dated 18th November,
1968 we are to inform you that we have no
objection to your application to the Court to
refer the said document to the Department of
Chemistry provided it is agreed that the plaintiffs
reserve the right to challenge the Chemist's
report, if necessary, when it is produced at the
hearing and provided further the costs of the
application and incidental thereto are paid by
your client subject to Order of Court that may be
made later on at the hearing.

20

Yours faithfully,

Sd: K.L. DEVASER & CO.

30

c.c. to clients.

EXHIBIT AB.53

Exhibit AB.53

LETTER FROM SKRINE & CO.
TO K.L. DEVASER & CO.

Letter from
Skrine & Co.
to K.L.
Devaser & Co.

KLD/PK/S/1183/67
P/DY/8055/66

25th November, 1968

25th November
1968

Messrs. K.L. Devaser & Co.,
Room 203, Second Floor,
Lee Wah Bank Building,
Klyne Street, Kuala Lumpur

10

Dear Sirs,

Re: K.L. High Court Civil Suit
No.1506 of 1967

We thank you for your letters of the 18th and 19th instant. It seems to us that the application, which will be necessary, should be made under Order 37 A. If we are correct, then your client's right and the question of costs will all fall to be dealt with under that Order.

20

Yours faithfully,

Sd: SKRINE & CO.

EXHIBIT AB.54

Exhibit AB.54

LETTER FROM K.L. DEVASER & CO.
TO SKRINE & CO.

Letter from
K.L. Devaser
& Co. to
Skrine & Co.

K.L. DEVASER & CO.

Room 203, Second Floor,
Asia Insurance Building,
Klyne Street,
Kuala Lumpur, Malaysia

26th November
1968

26th November, 1968

30

Messrs. Skrine & Co.,
Advocates & Solicitors,
Straits Trading Building,
4 Leboh Pasar Besar, Kuala Lumpur

Dear Sirs,

Re: K.L. High Court Civil Suit No.1506 of 1967

We thank you for your letter of the 25th instant. We agree with your views expressed therein.

Yours faithfully,
Sd: K.L. DEVASER & CO.

Exhibit AB.55

EXHIBIT AB.55

Report made
by Phan Koh
Chai, Document
Examiner
Malaysia

REPORT MADE BY PHAN KOK CHAI,
DOCUMENT EXAMINER, MALAYSIA

JABATAN KIMIA
MALAYSIA

(Kimia 12)
(Pin. 1/69)

JALAN SULTAN, PETALING JAYA

16th August
1969

16hb. Ogo, 1969

No.Talipan (KL)52146-8

No.ma'mal: (KL) 4077/69

LAPORAN

10

berkenaa

.....cho toh2 yan di-terima daripada ...

..... di-bawa oleh pada , 19.....

I, PHAN KOK CHAI, Document Examiner, Malaysia do hereby certify that at 12.00 noon on the 1st day of March, 1969, there was handed to me by registered post (R No.8877 Kuala Lumpur G) one envelope unmarked and bearing no seal.

On examining the contents of the registered envelope I found the following documents:-

20

- (1) An agreement handwritten in Chinese and dated 1.6.1964.
- (2) The original and a carbon copy of a typewritten letter dated 9th April, 1964, addressed to one Madam Hoh Goi Lang.
- (3) The original and a carbon copy of a typewritten letter dated 9th April, 1964, addressed to Chop Hong Tong, No.61 Jalan Pesar Bharu, Kuala Lumpur.
- (4) A piece of paper bearing a signature given as specimen

30

I further certify that at 3.20 p.m. on 11th April

1969 I received per messenger one envelope bearing no seal and containing photostat copies of 15 cheques (The Bank of Canton, Ltd. K.L.) Nos. K 395357, K 395358, K 395359, K 395362, K 395361, K 395360, K 395363, K 395364, K 395368, K395365, K 395366, K 395369, K395370, K 395371 and K 727628.

Exhibit AB.55

Report made
by Phan Kok
Chai, Document
Examiner
Malaysia

10 I further certify that at 11.40 a.m. on 25th June 1969 I received by registered post (R. No. 5869 Kuala Lumpur A) one envelope bearing no seal and containing fifteen (15) cheques (The Bank of Canton Ltd. K.L.) Nos. K 395357, K 395358, K 395360, K 395361, K 395362, K 395363, K 395364, K 395365, K 395366, K 395368, K 395369, K 395370, K 395371, K 727628, K 727629.

16th August
1969
(continued)

I was requested to examine these documents and to report whether the signature on the agreement were signed by the writer of the signature given as specimen.

20 I have examined and compared the signatures. I am unable to express an opinion as to whether the writer of the signatures given as specimens signed the signatures on the agreement.

After examination the exhibits were sealed "Department of Chemistry 1 Kuala Lumpur" and sent by Registered post to Senior Asst. Registrar, Pejabat Pendaftaran Mahkamah Tinggi, Mahkamah Ke'adilan, Kuala Lumpur on 18.8.69.....

Sd: Phan Kok Chai
(PHAN KOK CHAI)

30

Document Examiner,
Malaysia

Senior Asst. Registrar,
Pejabat Pendaftaran Mahkamah Tinggi,
Mahkamah Ke'adilan,
KUALA LUMPUR.

ON APPEAL FROM

THE FEDERAL COURT OF MALAYSIA
HOLDEN AT KUALA LUMPUR
(APPELLATE JURISDICTION)

B E T W E E N :

1. SIEW SOON WAH alias SIEW POOI
YOONG (as trustee)
2. SIEW SOON WAH alias POOI YOONG and
3. SIOW POOI YUEN alias SIEW POOI YUEN
Appellants
(Plaintiffs)

- and -

YONG TONG HONG (sued as a firm)
Respondent
(Defendant)

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

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