

Ma'mur Awqaf of Gaza - - - - - Appellant

v.

The Village Settlement Committee of Barbara and  
another - - - - - Respondents

FROM

THE SUPREME COURT OF PALESTINE

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE 3RD MAY, 1948

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*Present at the Hearing:*

LORD UTHWATT

LORD MACDERMOTT

SIR JOHN BEAUMONT

[*Delivered by* LORD UTHWATT]

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This is an appeal from the judgment of the Supreme Court of Palestine dismissing the appellant's appeal from the decision of a Settlement Officer made under the Land (Settlement of Title) Ordinance. The material facts lie in a small compass. The point at issue before the Settlement Officer was whether or not a tract of land at Barbara was waqf sahih or waqf gheir sahih. At the hearing the Qadi of Gaza, pursuant to section 11 (3) of the Ordinance, sat with the Settlement Officer as assessor "for the purpose of advising him upon the law of Waqf involved." The Qadi of Gaza advised the Settlement Officer, for reasons which it is unnecessary to detail, that the land was waqf sahih. The Settlement Officer in a reasoned decision held that it was not, and his decision was on consideration of the evidence affirmed by the Supreme Court. The record in the appeal before their Lordships does not contain many of the documents adduced in Palestine which bear on the nature of the waqf in question. The merits of the dispute could not therefore be considered by their Lordships and the appellant was necessarily limited to the contention that the Settlement Officer was bound as a matter of law to accept the view entertained by the assessor as to the decision proper to be reached. Their Lordships are unable to accept this contention. The Settlement Officer is, in their Lordships' view, bound to pay proper attention to the opinion expressed by the assessor as to the law of Waqf involved, but it is the duty of the Settlement Officer to decide any point of law in the light of the weight he attaches to that opinion, not merely to register that opinion. The statement contained in *Ma'mur Awqaf of Gaza v. Ragheb Mustafa Abu Shaban* 8 P.L.R. 398, as to the duty of the Settlement Officer, appears to their Lordships unduly to fetter the Settlement Officer but it is unnecessary for the purposes of this case to enter upon a detailed consideration of this point.

In the present case their Lordships are unable to come to the conclusion that due consideration was not given by the Settlement Officer to the opinion on the law of Waqf expressed by the assessor. The decision of the Settlement Officer was therefore reached in due course of law.

Their Lordships will therefore humbly advise His Majesty that this appeal be dismissed. The respondents did not appear and there will not be any order as to the costs of the appeal.

In the Privy Council

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MA'MUR AWQAF OF GAZA

v.

THE VILLAGE SETTLEMENT  
COMMITTEE OF BARBARA AND  
ANOTHER

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DELIVERED BY LORD UTHWATT

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