

In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT, SITTING AS A COURT OF APPEAL,
JERUSALEM.

UNIVERSITY OF LONDON

-9 OCT 1956

INSTITUTE OF ADVANCED
LEGAL STUDIES

44485

BETWEEN

1. BRACHA BEN-YA'ACOV
2. (A) NISSIM MIRAKOV COHEN
(B) MALKIEL MIRAKOV COHEN
3. (A) DOV GUTERMAN
(B) DVORA GUTERMAN
4. (A) BLUMA VORTMAN
(B) YA'ACOV VORTMAN
in their personal capacity as heirs and as legal representa-
tives of the estate of the late SIMHA VORTMAN
5. BENJAMIN MANN
6. ESTHER MAMANOV
7. REUVEN LEV
8. MEIR WIND
9. (A) GERSHON MABOVITZ
(B) SHIFRA GERSHONOVITZ - - - (Defendants) *Appellants*

AND

JOSEPH FORER - - - (Plaintiff) *Respondent.*

RECORD OF PROCEEDINGS

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In the Privy Council.

ON APPEAL

FROM THE SUPREME COURT, SITTING AS A COURT OF APPEAL, JERUSALEM.

BETWEEN

- 1. BRACHA BEN-YA'ACOV
 - 2. (A) NISSIM MIRAKOV COHEN
(B) MALKIEL MIRAKOV COHEN
 - 10 3. (A) DOV GUTERMAN
(B) DVORA GUTERMAN
 - 4. (A) BLUMA VORTMAN
(B) YA'ACOV VORTMAN,
in their personal capacity as heirs and as legal
representatives of the estate of the late SIMHA
VORTMAN
 - 5. BENJAMIN MANN
 - 6. ESTHER MAMANOV
 - 7. REUVEN LEV
 - 20 8. MEIR WIND
 - 9. GERSHON MABOVITZ (Defendants) - - *Appellants*
- AND
- JOSEPH FORER (Plaintiff) - *Respondent.*

RECORD OF PROCEEDINGS

No. 1.

STATEMENT OF CLAIM.

IN THE LAND COURT OF TEL-AVIV.

Land Case No. 16/44.

Between :—

- 30 JOSEPH FORER - - - Plaintiff
- v.*
- BRACHA BEN-YA'ACOV - - - Defendant.

Value of Claim LP.450.

1. The Plaintiff is the registered owner of parcel No. 457 in block 6904, Tel-Aviv, in accordance with registered title deed. An extract from the register is attached hereto and marked "A."

2. The Plaintiff has erected a building thereon and he is accordingly the owner thereof.

*In the
Land Court
of Tel-Aviv.*

No. 1.
Statement
of Claim,
15th
August
1944.

*In the
Land Court
of Tel-Aviv.*

No. 1.
Statement
of Claim,
15th
August
1944,
continued.

3. The Defendant is wrongly in possession of rooms in the said building, namely : a flat in the third floor consisting of three rooms and its appurtenances.

4. Defendant purports to be in possession of the said flat by virtue of an agreement, a copy of which is attached hereto and marked " B. "

5. The said agreement is one not known to the law of Palestine and various courts in Palestine have so found. This Court will be asked to decide that the said agreement is of no effect.

6. The Plaintiff has asked the Defendant to leave these premises and succeeded in an action in the Magistrate's Court for his eviction, 10 which judgment was upheld by the District Court, but the Supreme Court set aside the judgments of the Courts below on the ground that this Court alone had jurisdiction.

7. The Defendant is interfering with the quiet enjoyment by the Plaintiff of the rooms in question and of the land belonging to the Plaintiff.

8. If, which is denied, the said agreement was one recognized by law, the Defendant has at no time carried out the terms of the said agreement.

9. The house known as 24 Hashoftim Street built by the Plaintiff on his own land was originally intended to be sold to purchasers including the Defendant but certain of the said purchasers claimed in Court that 20 the agreement was of no legal effect in Palestine and the Court upheld the said submission.

10. The right of ownership involves the right of possession and the Defendant is interfering with the said right of the landlord.

11. Certain monies were paid by the Defendant to the Plaintiff in connection with Exhibit " B " and these sums were paid in Court by the Plaintiff to be received by the Defendant at any time he should deem proper and the said sum still remains in Court for the Defendant. Accordingly, the Defendant holds no lien on the property for unpaid 30 purchase price.

It is accordingly prayed that this Court do declare that the Plaintiff is sole owner of the property more fully described in Exhibit " A " and of the building thereon and do further declare that the Plaintiff is the sole person having a right in or over the said land and in the building thereon.

It is further prayed that this Court do order the Defendant not to interfere with the right of the Plaintiff in and over the said land and building.

It is further prayed that this Court do restrain the Defendant from interfering with the Plaintiff's enjoyment of the land and building in 40 dispute.

It is further prayed that the Defendant do pay costs and advocate's fees of this action.

(Sgd.) Y. GAULAN,
For the Plaintiff.

No. 2.
STATEMENT OF DEFENCE.

*In the
Land Court
of Tel-Aviv.*

The extract mentioned in para. 1 of the Statement of Claim has not been served on Defendant. Plaintiff failed therefore to comply with Rule 118 of the Civil Procedure Rules, 1938.

No. 2.
Statement
of Defence,
Land Case
No. 16/44,
14th
September
1944.

2. The building on the plot mentioned before was erected with the money of Defendant and moneys paid and materials supplied by other purchasers.

10 3. It is expressly denied that the Defendant is wrongly in possession of the flat mentioned in para. 3 of the Statement of Claim.

4. It is expressly denied that the agreement, a copy of which was attached to the Statement of Claim and marked " B ", is not known to the law of Palestine. The Courts which so found had no jurisdiction, and their judgment is therefore a nullity.

5. The judgment mentioned in para. 6 of the Statement of Claim is a nullity as it was given by the Magistrate's Court without jurisdiction. The Supreme Court has so found. It is denied that the Supreme Court has ruled that this Court has jurisdiction.

20 6. It is denied that the Defendant is interfering with the Plaintiff's enjoyment of the rooms or land. Plaintiff is not entitled to such enjoyment.

7. It is denied that Defendant has ever submitted that the agreement with Plaintiff is of no legal effect, and that any Court has upheld such submission. Alternatively, if any Court has so ruled such a ruling is a nullity and of no effect.

8. It is denied that right of ownership in these circumstances involves a right of possession, and that the Defendant is interfering with Plaintiff's right.

30 9. It is denied that the moneys due to Defendant by virtue of her lien are at Defendant's disposal and can be received by Defendant at any time, or that they still remain in Court.

Defendant has therefore a lien on the room.

10. It is denied that Defendant has not carried out the terms of the agreement between the parties.

11. It is submitted that the present action is misconceived, and only the District Court has jurisdiction to declare the agreement null and of no effect, as submitted by Plaintiff.

Wherefore it is prayed that Plaintiff's action be dismissed with costs and advocate's fees.

Sgd. O. ROTENSTREICH,

Attorney for Defendant.

*In the
Land Court
of Tel-Aviv.*

No. 3.
Issues in
Land Case
No. 16-44
(Translation from
Hebrew),
24th
September
1944.

No. 3.
ISSUES.

(Translation from Hebrew.)

Before—

HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

1. Is Defendant unlawfully in possession of the property the subject matter of this action ?
2. Is a contract of the nature of the one attached to the Statement of Claim and marked " B " known to the laws of Palestine ? 10
3. Has this Court jurisdiction to decide whether this contract is legal or not ?
4. Is Defendant entitled to the use of the property as a result of the rights conferred upon him by this contract ?
5. Did Defendant at any time admit that contract " B " is invalid and, if so, what importance should be attached to such an admission or contention ?
6. Did any one of the purchasers of the flats in the house in question admit or contend that the contract between him and the Plaintiff is invalid and, if so, what importance should be attached to an admission or 20 contention of such nature as regards the Defendant in this action ?
7. Does the Plaintiff's right of ownership confer on him also the right to possession of the property in the circumstances of the case ?
8. Does Defendant not hold a lien on the property as a result of his having deposited sums of money paid by him pursuant to the contract ?
9. Were all the sums of money, paid by Defendant on account of the sale and due to Plaintiff as a result of the relations between the parties, deposited in Court ?
10. Was the whole building erected out of the moneys of Defendant and others like him paid in cash or in materials and, if so, has this any 30 special relevance as regards the results of the present action ?
11. Did the Defendant commit a breach of the terms of the contract ?

I decide to enter the case in the list of pending cases. Counsel for both parties notified that they have to be ready with their proofs whether oral or in writing, on the day that will be fixed for the hearing of the case.

Sgd. Z. CHESHIN,

Judge.

24.9.44.

No. 4.
STATEMENT OF CLAIM.
Land Case No. 24/44.

*In the
Land Court
of Tel-Aviv.*

No. 4.
Statement
of Claim,
Land Case
No. 24/44,
15th
August
1944.

BETWEEN :—

JOSEPH FORER - - - - - Plaintiff

V.

- 1. NISSIM MIRAKOV COHEN
- 2. MALKIEL MIRAKOV COHEN - - - Defendants

Value of Claim LP, 450.

(Same as Statement of Claim No. 1, p. 1.)

10

No. 5.
STATEMENT OF DEFENCE.

No. 5.
Statement
of Defence,
Land Case
No. 24/44,
14th
September
1944.

1. Although the Plaintiff is registered as the owner of Parcel 457 in Block 6904, in accordance with the registered title deed, and has erected a building thereon, but according to the Contract of Sale dated the 8th August, 1938, between the Plaintiff and Defendants, the Plaintiff has sold to the Defendants a part of the plot and 3 rooms in third floor of the above mentioned property, as it is seen from the Contract attached hereby. So that the part consisting of an area to be in proportion to the number of rooms to be owned together with the other flat owners owes to the Defendants and he is the sole owner of same.

20

2. The Plaintiff states in his Statement of Claim paragraph No. 3, that the Defendants are wrongly in possession of rooms in the said building. It is not right, the Defendants are in possession of the above room having the full right to same, as all owners in the world are holding their property justly and equitably.

In the above Contract of Sale it is said that the Plaintiff has built a house of *common ownership* and has offered the Defendants in the aforesaid house of common ownership. Paragraph 12 of the Contract in question says that the contract has been made and signed by both parties with the free will by both parties, so that the Plaintiff cannot say that he does not know what he has signed. It is to be emphasized that before the completion of the building the Plaintiff has sent a letter to the Defendant and invited him to come to him and negotiate regarding the sale and purchase of the above flat.

30

The above paragraph 12 of the contract says as well that any party committing a breach of the contract in question shall pay to the other party the sum of LP.200.- as prefixed liquidated damages, in the event that the Plaintiff shall commit the breach he shall have in addition to the above mentioned amount to return and to pay to the Defendants the money that he received in cash and in bills together with 9% interest on the above mentioned amount.

40

*In the
Land Court
of Tel-Aviv.*

No. 5.
Statement
of Defence,
Land Case
No. 24/44,
14th
September
1944,
continued.

3. Taking into consideration the above the Defendants are in the possession of the said flat by virtue of the aforesaid and are justly and equitably holding same.

4. The Plaintiff states in his Statement of Claim, paragraph No. 5, that the said contract is not known to the law of Palestine. But this Court will be asked to decide that the said contract has an effect. The Supreme Court has also stated that the Defendants' (Appellants') contention is correct that it was necessary for the Plaintiff in order to succeed in his action to obtain a decision on the question whether the agreements were null and void.

10

A contract signed on stamps of His Majesty which the Defendants are honouring as the seal of His Majesty the King, is due to the Defendants' opinion a lawful contract and agreement.

5. In item 6 of the Statement of Claim it is said that the Plaintiff has asked the Defendants to leave these premises and succeeded in an action in the Magistrate's Court for their eviction, which judgment was upheld by the District Court, but the Supreme Court set aside the above mentioned judgments of the Courts below on the ground that this Court alone had jurisdiction in this case.

The Plaintiff has no right by no means to ask the Defendants to leave the flat of which they are the lawful owners. The Plaintiff has not succeeded in same even by the Magistrate's Court, because as the Plaintiff himself confesses that the Magistrate's Court had no jurisdiction in this case. And the Supreme Court has set aside the above mentioned judgments. And whereas the Magistrate's Court had no jurisdiction, therefore his judgment is not to be considered as judgment.

20

The Plaintiff states as well that the Judgment of the Magistrate's Court was upheld by the District Court. The Defendants stated regarding this that the District Court has found no guiltiness, but said that the Plaintiff had no right to sell Musha the flat. But if he could not sell a flat why has the Plaintiff sold same with such a condition. The Plaintiff is not a simple man, he is aware of all Rules and laws, he is a very known Contractor, has built many houses, sold many buildings and many houses of common ownership as the house in question.

30

But the upholding of the District Court is not a lawful approval because as the District Court had the jurisdiction to set aside the judgment of the Magistrate's Court, and has not done same, but contrary his judgment was upheld by him, so that his approval is not an approval, and all the judgments are set aside.

6. "The Defendants are interfering with the quiet enjoyments by the Plaintiff of the rooms in question and of the land belonging to the Plaintiff"—says item 7 of the Statement of Claim. The Plaintiff is wrong saying same. How can belong to him such a property which was built with the money of others. The above mentioned house has been sold during 1937 and 1938 at the price of LP.5000.—, and this money the Plaintiff took for himself, and at present only God knows how many debts are on this property. So how can belong the capital of others to him ?

40

7. The Plaintiff says in item 8 of the Statement of Claim that the Defendants have not carried out the terms of the agreement. This is not right. The Defendants have carried out the terms not 100 % but 150 %.

*In the
Land Court
of Tel-Aviv.*

The Defendants have purchased the flat at the price of LP.600.— which was to be paid in monthly instalments during 20 years and up to this date the Defendants have paid already the sum of LP.431.— as you can see from the following account :—

No. 5.
Statement
of Defence,
Land Case
No. 21/44,
14th
September
1944,
continued.

	On the date of signing the contract in cash	LP.100.—
	Bills	50.—
10	To the Palestine Mortgage Bank Ltd. for Plaintiff ..	86.—
	Deposits to the Palestine Mortgage Bank Ltd. ..	70.—
	Mortgage	125.—
		<hr/>
	Total	LP.431.—
		<hr/> <hr/>

The Defendants have previously paid Municipal fees as well as Insurance for the house, but lately began the Plaintiff to pay same, and this only in order to be able to succeed in the above mentioned cases.

8. Paragraph 5 of the Contract says that in even that a committee of a co-operative society of the house in common ownership shall not be formed within a year from the day of signing this contract, the Plaintiff shall transfer to the Defendants their share in the plot and in the building Musha. After a year the Defendants have forwarded a notice to the Plaintiff and demanded from him to transfer on the Defendants' name the above share of plot and house, but no reply has reached to the Defendants.

9. In the Statement of Claim No. 9 the Plaintiff says that a certain number of purchasers claimed in Court that the agreement was not legal effect in Palestine, but if there is one who is a wicked person you have to destroy the whole nation and righteous too ? says our holy bible.

10. Item 10 of the Statement of Claim says that the Defendants are interfering the Plaintiff. But it is not correct the Plaintiff is interfering already 3 years the Defendants by intriguing various unpalatable things, as not paying his debts on the house, claiming all kinds of claims before all kinds of Courts, as Magistrate's Court, District Court, etc., civil claim, eviction claims, criminal claims etc. etc., and there is no end to his claims. Then who interferes ? Is there no justice and righteousness under the British Protection ?

It is accordingly prayed that this Court do declare that the Defendants are sole owners of the plot and the flat in question, and do further declare that the Defendants are the sole persons having the right in or over the said land and in flat of the building thereon.

It is further prayed that the Court do order the Plaintiff not to interfere with the right of the Defendants in and over the said plot and flat.

It is further prayed that this Court do restrain the Plaintiff from interfering with the Defendants' enjoyment of the plot and flat in dispute.

It is further prayed that the Plaintiff does pay costs and advocate's fees of this action.

(Sgd.) NISSIM MIRAKOV COHEN

MALKIEL MIRAKOV COHEN

Defendants.

*In the
Land Court
of Tel-Aviv.*

No. 6.
Issues,
Land Case
No. 24/44
(Transla-
tion from
Hebrew),
24th
September
1944.

**No. 6.
ISSUES.**

(Translation from Hebrew.)

Before HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

1. Is Defendant unlawfully in possession of the property the subject matter of this action ?
2. Is a contract of the nature of the one attached to the Statement of Claim and marked " B " known to the laws of Palestine ?
3. Is Defendant entitled to the use of the property as a result of 10 the rights conferred upon him by this contract ?
4. Did the Defendant fulfil the provisions of the contract which he had to fulfil ?
5. Were all the sums of money, paid by Defendant on account of the sale and due to Plaintiff as a result of the relations between the parties, deposited in Court ?

(Sgd.) Z. CHESHIN,

24.9.44.

Judge.

No. 7.
Statement
of Claim,
15th
August
1944.

**No. 7.
STATEMENT OF CLAIM.**

20

Land Case No. 23/44.

Between JOSEPH FORER - - Plaintiff

v.

1. DOV GUTERMAN -
2. DVORA GUTERMAN - Defendants.

Value of Claim LP.450.

(Same as No. 1 with the exception of Clauses 6, 9, 10 and 11.)

* * * * *

6. The house known as 24 Hashoftim Street, built by the Plaintiff on his own land, was originally intended to be sold to purchasers including the Defendants but certain of the said purchasers claimed in Court that the agreement was of no legal effect in Palestine and the Court upheld the said submission. 30

* * * * *

9. The right of ownership involves the right of possession and the Defendants are interfering with the said right of the landlord.

*In the
Land Court
of Tel-Aviv.*

10. Plaintiff has brought an action in this Court, No. 16/43, against Defendants, in connection with the cancellation of the mortgage on the above flat and he respectfully asks that the said action be consolidated with the present claim.

No. 7.
Statement
of Claim,
15th
August
1944,
continued.

11. Certain monies were paid by the Defendants to the Plaintiff in connection with Exhibit "B." Plaintiff is ready and willing to refund these monies to Defendants or to their order.

* * * * *

10

(Sgd.) Y. GAULAN,
for the Plaintiff.

No. 8.
STATEMENT OF DEFENCE.

No. 8.
Statement
of Defence,
Land Case
No. 23/44,
14th
September
1944.

(Same as No. 2 with the exception of Clauses 4 to 7, 12 and 13.)

* * * * *

4. It is denied that Defendants are in possession of the said flat by virtue of an agreement marked "B." Defendants are in possession of the flat by virtue of conditions of a mortgage which Plaintiff seeks to cancel and brought an action in this Court in Land Case No. 16/43.

5. The action is premature.

20

6. *Alternatively* : It is expressly denied that the agreement, a copy of which was attached to the Statement of Claim and marked "B," is not known to the law of Palestine. The Courts which so found had no jurisdiction and their judgment is therefore a nullity.

7. *Alternatively* : It is denied that Defendants have ever submitted that the agreement with Plaintiff is of no legal effect and that any Court has upheld such submission. Alternatively, if any Court has so ruled such a ruling is a nullity and of no effect.

* * * * *

30 12. *Alternatively* : Defendants have an equitable lien on the flat and as long as the said lien is not discharged no action can lie against the Defendants. A declaration that Plaintiff is willing to discharge the lien does not amount to a discharge.

13. An application for consolidation of two actions contained in a Statement of Claim cannot be maintained. Such an application must be made in accordance with the Rules of Procedure in force.

In the
Land Court
of Tel-Aviv.

No. 9.
ISSUES.

(Translation from Hebrew.)

Before HIS HONOUR Z. CHESHIN, J.

No. 9.
Issues,
Land Case
No. 23/44
(Transla-
tion from
Hebrew),
24th
September
1944.

The following issues have been fixed :—

(Same as No. 3 with the addition of Issues 12, 13 and 14.)

* * * * *

12. Can it be maintained that the Defendants are in possession of the property by virtue of the mortgage existing on same in their favour ?

13. Does the fact of the mortgage not having been discharged as yet prevent Plaintiff from instituting the present action ?

10

14. Is Plaintiff's declaration that he is ready to deposit the mortgage sum sufficient in order to vest in him the right applied for in this action ?

(Sgd.) Z. CHESHIN,
Judge.

24.9.44.

No. 10.
Statement
of Claim,
Land Case
No. 22/44,
15th
August
1944.

No. 10.
STATEMENT OF CLAIM.

Land Case No. 22/44.

Between JOSEPH FORER - - - - - Plaintiff

V.

20

- 1. BLUMA VORTMAN
- 2. YAACOV VORTMAN, in their personal capacity as heirs and as legal representatives to the estate of SIMHA VORTMAN, deceased - - Defendants.

Value of Claim LP.450.

(Same as No. 1 with the exception of Clauses 4 and 10.)

* * * * *

4. Defendants are without any claim of right in possession of the said flat. It is a fact that the husband of the first named Defendant entered into an alleged agreement with the Plaintiff. The said agreement was and is of no effect and can in no circumstances confer any right on the Defendants. A copy of this agreement is attached hereto and marked " B." 30

* * * * *

10. Certain monies were paid by the said Simha Vortman to the Plaintiff in connection with Exhibit " B." Plaintiff is ready and willing to refund these monies to Defendants or to their order.

(Sgd.) Y. GAULAN,
for the Plaintiff.

No. 11.
STATEMENT OF DEFENCE.

*In the
Land Court
of Tel-Aviv.*

It is denied that Defendants are the legal representatives of the Estate of the late Simcha Vortman. No Court has ever established that Defendants are the heirs of the late Simcha Vortman. The phrase "in their personal capacity and as legal representative" is a *contradictio in adiecto* and of no meaning whatever.

No. 11.
Statement
of Defence,
Land Case
No. 22/44,
14th
September
1944.

(Same as No. 2 with the exception of Clause 5.)

* * * * *

5. It is denied that Defendants are without any claim of right in possession of the flat in question. It is also denied that the agreement (marked "B") is of no effect, and does not confer any rights on Defendants.

* * * * *

(Sgd.) O. ROTENSTREICH,
Attorney for Defendants.

No. 12.
ISSUES.

No. 12.
Issues,
Land Case
No. 22/44
(Transla-
tion from
Hebrew),
24th
September
1944.

(Translation from Hebrew.)

Before HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

(Same as No. 3 with the addition of Issues 12 and 13.)

* * * * *

12. Are the Defendants the legal representatives of the estate of the late Simha Vortman or was it established by a competent court that they are the lawful heirs of the said deceased and if not so established by the Court, is it any special importance to this case if it will appear that they are in fact the lawful heirs of the said deceased.

13. Is the designation of the Defendants in the heading of the Statement of Claim "in their personal capacity as heirs and as legal representatives" creating a defect in the Statement of Claim.

*In the
Land Court
of Tel-Aviv.*

**No. 13.
STATEMENT OF CLAIM.**

Land Case No. 21/44.

No. 13.
Statement
of Claim,
Land Case
No. 21/44,
15th
August
1944.

Between JOSEPH FORER - - - - - Plaintiff
V.
BENJAMIN MANN - - - - - Defendant.
Value of Claim LP.350.

No. 14.
Statement
of Defence,
Land Case
No. 21/44,
14th
September
1944.

**No. 14.
STATEMENT OF DEFENCE.**

(Same as No. 2, p. 3.)

10

No. 15.
Issues,
Land Case
No. 21/44
(Transla-
tion from
Hebrew),
24th
September
1944.

**No. 15.
ISSUES.**

(Translation from Hebrew.)

Before HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

(Same as No. 3, p. 4.)

No. 16.
Statement
of Claim,
No. 17/44,
15th
August
1944.

**No. 16.
STATEMENT OF CLAIM.**

Land Case No. 17/44.

Between JOSEPH FORER - - - - - Plaintiff 20
V.
ESTHER MAMANOV - - - - - Defendant.
Value of Claim LP.450.
(Same as No. 1, p. 1.)

No. 17.

STATEMENT OF DEFENCE.

In the
Land Court
of Tel-Aviv.*(Same as No. 5, p. 5, with the exception of Clauses 1, 7 and 10.)*No. 17.
Statement
of Defence,
Land Case
No. 17/44,
30th
August
1944.

1. Although the Plaintiff is the registered owner of parcel No. 457 in block 6904, in accordance with registered title deed, and has erected a building thereon, but according to the Contract of Sale of the 26.5.38 between the Plaintiff and the Defendant, the Plaintiff has sold to the Defendant a part of the plot and 3 rooms in the 2nd floor of the above-mentioned property, as it is seen from the Contract attached hereby.
10 So that the plot consisting of an area to be in proportion to the number of rooms to be owned together with the other flat owners owes to the Defendant and he is the sole owner of same.

* * * * *

7. The Plaintiff says in item 8 of the Statement of Claim that if the said contract (agreement) was recognised by law, the Defendant has at no time carried out its terms. This is not right, and it is only a plausible reason of retracing the truthness. The Defendant has carried out the items of the contract not 100% but 150%.

The Defendant has purchased the flat at the price of LP.550.- which is to be paid in monthly instalment during 20 years (from 26.5.38 till 20 26.5.1968) and up to this date the Defendant has paid already the sum of LP.477.680, as you can see from the following detailed account:—

On the date of signing the above-mentioned contract	LP.150.-
To the Palestine Mortgage Bank Ltd. for Plaintiff ..	54.-
Deposits in the Palestine Mortgage Bank Ltd.	102.-
Bills (promissory notes) which Plaintiff has received	46.680
Second mortgage	125.-
	<hr/>
Total	LP.477.680
	<hr/> <hr/>

Besides the above I have paid some years' insurance and municipal fees. But after some years that the Defendant has paid the above fees, 30 without giving the Defendant any notice, the Plaintiff began to pay the Municipal fees in order to be able to succeed in the above-mentioned cases, what was confirmed also by the Secretary of the Tel-Aviv Municipality when he appeared as witness before the District Court in the above-mentioned case. After 3 years since the Defendant has purchased the flat the Plaintiff asked an increasement, and gave him such, but the transfer has not yet been effected.

* * * * *

10. Item 10 of the Statement of Claim says that the Defendant is 40 interfering the Plaintiff. The Heaven and Land may be witness who interferes. It is already more than 3 years since the Plaintiff interferes in the whole life of the Defendant by intriguing various unplausible things, as: not paying his debts on the house, and the house was to be sold by auction. So that all the tenants were compelled to take a mortgage and so we have succeeded to save our flats and ourselves.

*In the
Land Court
of Tel-Aviv.*

No. 17.
Statement
of Defence,
Land Case
No. 17/44,
30th
August
1944,
continued.

Every time the Plaintiff is troubling us with proceedings by the Magistrate's Court, District Court, Supreme Court, in order we shall return to him the flat. He claimed also to the Municipal Court to fix the rent, to the District Court to demand rent for 6 years, to the Magistrate's Court to demand rent for 6 months, then for one month, a criminal claim against the tenants, and there is no end to his claims.

Then who interferes ? Is there no justice and righteousness under the British protection ?

* * * * *

(Sgd.) ESTHER MAMANOV,

Defendant. 10

No. 18.
Issues,
Land Case
No. 17/44
24th
September
1944.

No. 18.
ISSUES.

Before HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

(Same as No. 6, p. 8.)

No. 19.
Statement
of Claim,
Land Case
No. 20/44,
15th
August
1944.

No. 19.
STATEMENT OF CLAIM.

Land Case No. 20/44.

Between JOSEPH FORER - - - - Plaintiff

V.

20

REUVEN LEV - - - - Defendant.

Value of Claim LP.350.

(Same as No. 1, p. 1.)

No. 20.
Statement
of Defence,
Land Case
No. 20/44,
14th
September
1944.

No. 20.
STATEMENT OF DEFENCE.

(Same as No. 2, p. 3.)

No. 21.
ISSUES.

(Translation from Hebrew.)

Before HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

(Same as No. 3, p. 4.)

No. 22.

STATEMENT OF CLAIM.

Land Case No. 18/44.

10 Between JOSEPH FORER

- - Plaintiff

V.

MEIR WIND

- - Defendant.

Value of Claim LP.450.

(Same as No. 1, p. 1.)

No. 23.

STATEMENT OF DEFENCE.

(Same as No. 2, p. 3, except as to paragraph 4.)

4. It is denied that Defendant purchased the agreement referred to in paragraph 4 of the Statement of Claim. The said agreement has been assigned with all his rights and liabilities with the express consent of the Plaintiff to the Defendant.

No. 24.

ISSUES.

(Translation from Hebrew.)

Before HIS HONOUR Z. CHESHIN, J.

The following issues have been fixed :—

(Same as No. 3, p. 4, with the addition of Issue No. 12.)

12. Did Defendant acquire his rights in the property by purchasing a contract existing between Plaintiff and another purchaser, or by accepting the assignment of the rights and liabilities created in the contract which was in existence between Plaintiff and another purchaser and did Plaintiff give his consent to the sale of the contract or to the assignment of the said rights.

(Sgd.) Z. CHESHIN,

Judge.

24.9.44.

*In the
Land Court
of Tel-Aviv.*

No. 21.

Issues,
Land Case
No. 20/44
(Translation from
Hebrew),
24th
September
1944.

No. 22.

Statement
of Claim,
Land Case
No. 18/44,
15th
August
1944.

No. 23.

Statement
of Defence,
Land Case
No. 18/44,
14th
September
1944.

No. 24.

Issues,
Land Case
No. 18/44
(Translation from
Hebrew),
24th
September
1944.

*In the
Land Court
of Tel-Aviv.*

**No. 25.
STATEMENT OF CLAIM.**

Land Case No. 19/44.

No. 25.
Statement
of Claim,
Land Case
No. 19/44,
15th
August
1944.

Between JOSEPH FORER - - - - - Plaintiff
V.
GERSHON MABOVITZ
SHIFRA GERSHONOVITZ - - - - - Defendants.

Value of Claim LP.350.

(Same as No. 1, p. 1.)



No. 26.
Statement
of Defence,
Land Case
No. 19/44,
14th
September
1944.

**No. 26.
STATEMENT OF DEFENCE.**

10

(Same as No. 2, p. 3.)



No. 27.
Issues,
Land Case
No. 19/44
(Transla-
tion from
Hebrew),
24th
September
1944.

**No. 27.
ISSUES.**

(Translation from Hebrew.)

(Same as No. 3, p. 4.)



No. 28.

PROCEEDINGS IN LAND CASE NO. 16/44.

(With which all other cases have been consolidated.)

Land Case No. 16/44.

Before HIS HONOUR JUDGE R. WINDHAM, R/President.

IN THE MATTER OF :—

J. FORER

Plaintiff

V.

B. BEN YA'ACOV

Defendant.

10 For Plaintiff : Goitein.

For Defendant : Eliash.

Date 20.11.44.

Eliash : I suggest Your Honour should not sit, but another judge, as Your Honour has already decided on the legal issues, sitting as a District Court in appellate capacity. Not consonant with justice. I am not trying to gain time.

Goitein : I object to any adjournment at all. I have been waiting for years. Your Honour can sit with an open mind. Almost every judge has decided these agreements are bad. Cannot pick and choose
20 one's judge. They are playing for time.

Eliash in reply.

Decision : I think it would be in the best interests of justice if this case were heard by another judge, who has not already given a decision directly on the points at issue.

Adjourned accordingly to December 11th, 12th and 13th to be heard by Judge Hubbard (whom I have consulted). Since the Defendant might have made his application earlier and avoided the necessity of Plaintiff's advocate coming from Jerusalem to appear to-day, Plaintiff to have his costs of this application, which I fix at the inclusive sum of I.P 8.

30

(Sgd.) R. WINDHAM.

20.11.44.

11.12.44.

Goitein for the Plaintiff in all cases -16-24 inclusive.

Eliash for all Defendants in all cases -16-24 inclusive.

Land Cases 16-24/44 consolidated on application of Goitein under rule 304, Eliash objecting.

Order to Consolidate

(Sgd.) P. C. HUBBARD.

Goitein : Each contract deals with sale of flat in house. Lev, Defendant in 20/44 pleaded same contract void in action by present
40 Plaintiff for rent. Since 1939 several Courts have dealt with these contracts and held them to be void. Defendants all know fate of this case, but wish

*In the
Land Court
of Tel-Aviv.*

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.

*Plaintiff's
Witness 1.
Joseph
Forer.
Examina-
tion.*

to delay and sit tight rent free and take key money. Was not Plaintiff who first challenged agreement. It was various Defendants who challenged it when rent claimed. In 9 consolidated actions before Magistrate's Court for eviction, Magistrate gave judgment for Plaintiff in seven cases C.C. 6938/42 Tel-Aviv, Civil Appeal 198/43—Judge Windham, Civil Appeal 110/44—Civil Case 283/43–291/43 inclusive. Civil Appeal 83/39, Law Reports of the District Court of Tel-Aviv, 1939, page 114. Palestine Post 28, December, 1933—Land Appeal 8/33 claiming ownership and possession. High Court 35/43 (Palestine Law Reports 10, page 210). Land Transfer Ordinance, paragraph 5—Article 6—the two or three 10 persons are agents or nominees. Definition of "disposition." Committee never appointed nor co-operative society appointed and no registration. Who was to choose two or three purchasers as committee ?

See Contract in 21/44.

Plaintiff's Case :

(a) Plaintiff's Witness 1—JOSEPH FORER—sworn :

Plaintiff in these actions. Registered owner of parcel 457 and block 6904 Tel-Aviv. I have produced Land Registry extracts with Statements of Claim. In 1938 I erected a building on this land. I paid all costs of building from my own money and from money borrowed on mortgage. One of present Defendants, Lev, supplied LP.72.500 mils in materials and another, Benjamin Mann, supplied LP.50 in materials. Another Mr. Simcha Vortman supplied about LP.200 materials. Whole building cost me LP.6,400.— I sold flat to Bracha Ben-Ya'acov and to the other 8 Defendants, in each case by agreement in writing. By virtue of those agreements I allowed 9 Defendants to go into possession. I served 4 Defendants with notarial notices. I filed actions against all 9 Defendants. These 9 Defendants do not allow me to return to flats. I was in Court in 1940 when Rotestrich, Lev's Counsel, argued that the agreement was void. I heard this before I myself raised this point. I first 20 raised point in 1942 when I started my actions. No co-operative society ever formed to take over building, nor any committee formed for this purpose. I received a notice 15th August, 1939, from Defendant Mann that a committee had been formed. Persons named were Guterman and Mrs. Ben-Ya'acov. Mrs. Ben-Ya'acov never wrote to me and said he had been appointed nor did Guterman. Nor did any of other Defendants write to me about committee. This committee never opened any file in Land Registry. Committee gave me no documents to sign for transfer of land and house. Some of committee—Mamanoff and Mirakov and some others—told me they did not agree to the people appointed, because the 30 people named wanted to leave out all other tenants. I sent a notarial notice to Guterman and Ben Ya'acov calling on them to take transfer—sent notices 27th December, 1939. No reply to these notarial notices. As far as I know at this time none of Defendants wanted take transfer. When war broke out they all repented. This is notice to Mrs. Ben-Ya'acov (Plaintiff 1). 40

*Cross-
examina-
tion.*

Cross-Examination :

(Agreed all nine Land Registry extracts filed with Statement of Claim to be treated as evidence.)

The value of mortgages on land and house over LP.8,000. Built this house to sell to purchasers as house of common ownership. There are many such houses in Tel-Aviv and Jerusalem. My house has ten flats. Have made contracts for sale of nine flats only. I have sold 9 flats for LP.4,800 (agreed price). I have built other houses both before and after this of a similar kind. Where purchasers have not gone back on their agreements I have transferred the land and house. In one case the purchasers formed a co-operative society to whom I transferred building, and I do not remember what happened in other cases, but I transferred

10 musha share to each purchaser, but share not in proportion to number of rooms held. I received four purchasers, on signing contracts, LP.1,675. It is possible I received at all from all purchasers LP.2,313. The amount of mortgages on property was always less than money owed to me by purchasers. 10th flat consisted of 2 rooms, started 15.8.39—finished July, 1943. 10th flat started with permit and begun as a dwelling place—there was actually a garage and store and I got permission to turn it into a two-roomed flat. When I made contract with Ben-Ya'acov the garage and stores still there. I got permit for conversion subsequently. The

20 26 rooms in Ben-Ya'acov's contract included the two rooms not yet in existence, not yet converted. Mrs. Ben-Ya'acov did not ask me to transfer to her her share. I do not remember receiving a registered letter from Mrs. Ben-Ya'acov. I think I never received anything from her. Mrs. Ben-Ya'acov was to pay me balance of money on 1st December, 1939. Mrs. Ben-Ya'acov never said to me she would pay balance on transfer. Apart from Exhibit P/1 I never offered transfer to Mrs. Ben-Ya'acov. I never offered transfer to any of other 8 Defendants, only to co-operative society if formed. I made contract with Mamanoff (file 17). I never called on Mamanoff to take transfer under clause 5 of his contract. (Agreed all 9 contracts filed with Statement of Claim to be treated as evidence.)

30 I made agreement with Mirakov (24/44). I never opened file for transfer to Mirakov, nor to any of Defendants. In 1942 I brought actions against Defendants for recovery of possession. In 1943 I brought actions against Defendants for recovery of possession. In 1943 I applied Rent Tribunal to fix rent for each flat. Tribunal fixed rent for each flat. I brought actions for "equivalent" rent. I got judgment for rent on evidence of expert before Court.

17/44 I never arranged transfer of part of mortgage to Mrs. Mamanoff. I do not agree Mrs. Mamanoff paid me LP.477.680, she paid me only LP.250.680. She paid me LP.150 on signing contract, 54 to Palestine

40 Mortgage Bank to my name, 114 to Palestine Mortgage Bank at her own disposal, not at mine. 46.680 for Promissory Note paid to Plaintiff. She never told me herself that she was going back on contract. She took over 2/18 of mortgage debt of LP.747 and sold to her husband, Michail Mamanoff, to whom Z. Mayer assigned it.

Adjourned 11.12.44.

(Sgd.) P. C. HUBBARD,

R/President.

*In the
Land Court
of Tel-Aviv.*

27.

Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.
Plaintiff's
Witness 1.
Joseph
Forer,
continued.

In the 12.12.44
Land Court
of Tel-Aviv.

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.

Plaintiff's
Witness 1.
Joseph
Forer,
Cross-
examina-
tion,
continued.

All purchasers went back on contracts. Prior to outbreak of war received Notary Notice from Mann (21) asking for transfer to names of Ben Ya'acov and Guterman. Not true I could not make transfer because of attachments—I could have transferred. There were attachments of about LP.200, while all purchasers owed me much more than that. I did not open file in Land Registry in accordance with Mann's notice. I did not do this because I had asked him to satisfy me all purchasers agreed to transfer to Ben Ya'acov and Guterman and he failed to do so. I asked him for this in writing. Mrs. Ben Ya'acov did not ask me after Mann's Notary Notice to transfer to her and Guterman. I never asked purchasers to come and accept transfer in name of Ben Ya'acov and Guterman. 10
22/44—There are other heirs of S. Vortman besides Bluma and Ya'acov Vortman. S. Vortman paid me LP.275 at time of signing the contract, later on she made several payments bringing total (including 275) to LP.333. Besides she took over part of second mortgage for LP.50. 23/4—Guterman and his wife paid me LP.350 under the contract. As regards other Defendants I have paid the moneys into Court. I know some amounts have been withdrawn on order of Execution Officer in connection with judgments against me. I gave guarantee, when Magistrate 20 gave me order for eviction, in sum of LP.500 in respect of claims by purchasers for sums spent on repairs to building, which claims I do not admit. I do not know if purchasers spent any moneys on repairs. I know they made a cess-pit. They have not yet come and proved their claim. I did not ask for further sums beyond those paid under contract. It appears from a letter from Municipality that some of the purchasers paid Municipal taxes until 1941. I do not know if all Municipal taxes on house paid. These were taxes payable by owner of house. I had to start paying these taxes myself in 1941 because attachment made on another house of mine. Proceedings about second mortgage started in 30 1939. I then made arrangement with a man named Arnold to buy in the property. He gave me option to re-buy from him within a year. The purchasers also wanted to buy it for LP.3,900. I am not now willing to transfer to each purchaser his share. Since 1941 value of property started going up. This building now worth much more than I sold it for, at time of transfer.

Ben Ya'acov had to pay LP.300

Guterman had to pay LP.150

Mirakov had to pay LP. 50

Mamanoff had to pay LP. 40

The rest had to pay by instalments over 20 years.

Following sums were paid under contract by Lev	LP.217.785
Ben Ya'acov	234.070
Mabovitz	187.187
Wind	257.-
Mann	223.770
Mamanoff	250.680
Mirakov	236.240

I paid these amounts into Court. I was not invited by Sussman to effect transfer in 1941. On contrary, I spoke to him and asked him to 50 persuade purchasers to take transfer.

In 1939 and 1940 only nine flats in fact sold. I had no Power of Attorney to open file in name of Ben Ya'acov and Guterman. These two persons did not ask me to go to Land Registry. If purchasers willing take transfer 1939 or 1940 I could have transferred to them. I had to take mortgage for LP.4,000 to pay costs of case I have been conducting for four years. This mortgage in addition to previous mortgages. Purchasers should have taken transfer by 1.8.39. At March, 1941, interest due to me LP.800. Inasmuch as value of house low then I renounced LP.650 out of this. Found no willingness in purchasers to take transfer between 1939 and early part of 1941. I brought Civil Case 4931/40, against the two Guterman and Ben Ya'acov for recovery of possession. (Puts in certified true copy, judgment dated 25 February, 1941.) Two Defendants gave evidence in that case, Dov Guterman and Ben Ya'acov. Close of Plaintiff's case.

DEFENCE.

Eliash: Contracts are good contracts. *Main* undertaking was to transfer a proportionate share in land. Agree impossible register a particular flat. If purchaser willing, vendor must carry out contract in nearest possible way, even though he cannot carry it out exactly.

20 Defendants at all times ready take transfer. Plaintiff wishes break contract because prices risen.

Even if agreement null and void purchasers entered not as trespassers, and each purchaser has equitable lien for moneys paid to Plaintiff and shares of mortgages taken over.

Alternatively, this Court has not jurisdiction. Rent Restrictions Ordinance. Landlord brought action for rent.

Goitein: No allegation in Defence that Defendants—tenant. No issue. Besides, this is not an action for eviction.

30 *Eliash*: Defendants entered building with consent of Plaintiff and are quasi-tenants. Tenants by operation of law.

Court: The Defendants have not alleged that they are tenants, nor is there any issue on this point. In my view, no evidence can be led on this point.

(Sgd.) P. C. HUBBARD.

Defendants' Case:

(b) Defendants' Witness 1—BRACHA BEN-YA'ACOV—Sworn.

Teacher by profession. Made contract in 1939. Under that contract went into possession of flat. I have paid more than I had to under contract. I have received no transfer of any part of house. I was elected 1939 as member of committee to take transfer to our names. Other member Guterman. No objection to any other of seven Defendants. Mann sent Notarial Notice asking transfer my name and Guterman's. I addressed registered letter to Plaintiff, calling on him to transfer to me and Guterman. Received no reply. In August 1939, no Land Registry available because of fire which took place. I went to Plaintiff and told him Land Registry would be available in December and I suggested change of date till then. Date in contract was altered. I was always ready to accept transfer.

In the Land Court of Tel-Aviv.
No. 28.
Proceedings in Land Case No. 16/44 (with which all other cases have been consolidated), 20th November 1944 to 17th December 1944, continued. Plaintiff's Witness 1. Joseph Forer, Re-examination.

Defendants' Witness 1.
Bracha Ben-Ya'acov. Examination.

*In the
Land Court
of Tel-Aviv.*

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,

continued.
Defendants'
Witness 1.
Bracha
Ben-
Ya'acov,
Examina-
tion,
continued.

Cross-
examina-
tion.

Re-examin-
ation.

The second mortgagees ask for foreclosure and house was put up for sale. We offered (the purchaser) to buy property. We had already paid Plaintiff over LP.2,000. We offered pay whole of LP.3,500 on second mortgage. LP.5,500 exceeding price of building. At sale a certain Arnold bid so high that we could not compete. After Arnold got first order of sale, we agreed later over second mortgage. I owed Plaintiff only LP.266, having paid LP.234, yet my share of mortgage was LP.301 which I actually paid. Plaintiff never offered to transfer to me share I acquired under agreement, never invited me to Land Registry. I was ready and willing to accept my share, even musha'. Plaintiff claimed 10
eviction against me in Magistrate's Court. I never said in that case that contract no good. He also brought action for equivalent rent. Rent Tribunal assessed rent at LP.6.750 a month. I am willing accept transfer of 3/26 in that house to my name. In alternative, I am willing stay on and pay assessed rent as tenant. I never wanted to get out of contract. I paid owner's taxes on this building till 1942, I think. I stopped paying in 1942, because Municipality Inspector told me Plaintiff had paid again taxes which I had already paid 1939-1942. So inspector did not collect from me any more landlord's taxes. I went to Dr. Sussman and asked him to write to Plaintiff in connection with transfer. I received Notarial 20
Notice from Plaintiff. This was after Plaintiff knew that I and Guterman were ready accept transfer. Position then was that Plaintiff was not able then to transfer house because of attachments mortgages. Yet I replied to Plaintiff's Notarial Notice, this was besides Mann's Notary Notice.

I produced in Magistrate's Court copy of registered letter to Plaintiff calling on him for transfer. I did not produce before Magistrate receipt for this registered letter. It may be at home, I may have lost it. When I had no reply did not occur to me to send registered letter with "avis de reception." My registered letter referred to Mann's Notarial Notice. I signed the registered letter I sent, and sent it in my own name. About 30
June-July, 1939, we met to elect a committee. We asked Plaintiff many times, both before and after committee appointed, to transfer building. Before committee appointed I should have taken transfer of my share to my name. I bought flat on second floor. I would not accept 3/26 of each flat in building in exchange for my present flat. I do not remember how long meeting for appointment of committee lasted. It was in afternoon. Took some time. I think a minute of meeting was taken. Meeting was in flat of Vortman. Perhaps he made a minute. We did not get Power of Attorney executed before Notary Public, Guterman and I, from other purchasers. We have no document at all authorising us 40
to act. I think Lev was present at meeting. He did not tell me he was going to Court and say contract void. I have not heard to this day that there was a decision of Court that contract void, and that Lev made this allegation in Court. Rotenstreich was my advocate. Do not know that Rotenstreich who also represents Lev argued in Court that contracts null and void. I do know Magistrate in my case decided contract null and void. I gave evidence in Civil Case 4931/40 before His Worship Mr. Kantrovitch.

I never saw Lev's contract with Plaintiff. I was never party to proceedings in which Plaintiff claimed rent from Lev, nor in consolidated 50
proceedings. If Plaintiff transfers to me 3/26 of plot I should be satisfied.

(c) Defendants' Witness 2—BENJAMIN MANN—Sworn says :

*In the
Land Court
of Tel-Aviv.*

No. 28.

Proceedings
in

Land Case

No. 16/44

(with which

all other

cases have

been con-

solidated),

20th

November

1944 to

17th

December

1944,

continued.

Defendants'

Witness 2.

Benjamin

Mann.

Examina-

tion.

Cross-

examina-

tion.

Government Officer. I made agreement with Plaintiff in February, 1938. I sent Notary Notice to Plaintiff asking him to transfer to committee of Ben-Ya'acov and Dov Guterman. Sent it in August 1939. No opposition to these two people, then or afterwards. I have paid everything due under agreement. I was always willing to receive transfer. I am still willing receive proportionate share of plot and house. I never went back on my agreement. I took it to live in it. I was never called to Land Registry to take transfer. I went into possession with Plaintiff's consent. Plaintiff sued me for rent in District Court in 1944. My flat assessed by Rent Tribunal at LP.5 a month. If Court holds agreement bad, I am willing to remain as tenant at that rent. I paid property tax for one year 1937. I paid also insurance for flat. Plaintiff in 1939 sent me, in reply to my notarial notice, a letter asking for signature of all purchasers to show they agreed transfer to Ben-Ya'acov, and Guterman. I replied saying notarial notice had been sent with consent of all purchasers.

Meeting two days before notarial notice sent, Lev was present. Lev did not tell me then he was going to say in Court contract void. I knew nothing about Rotenstreich alleging Lev's contract void. I have never discussed this matter with Lev or Rotenstreich, or other tenants. I never heard any one except Goitein suggest sale of flat possible in Palestine. Rotenstreich never told me this point had been raised and was a danger to me. I gave Ben Ya'acov and Guterman no written Power of Attorney to act for me. I did not take signatures of other purchasers because I knew Plaintiff was not interested to transfer. But I told purchasers, Plaintiff had asked for their signatures. I stopped paying taxes in 1940 or 1941 because Municipality said Plaintiff would pay taxes. I paid LP.1.120 monthly for one year. I entered flat April, 1938, my flat completed in May, 1938. I started paying LP.3.420 from 1st April, 1938, and continued until 1942, and have not paid for last two years. During this period I paid LP.30.780 to receiver. The meeting was held in the evening. Guterman in chair. Mrs. Ben-Ya'acov kept a record of the meeting. No one else took record of meeting.

Meeting in flat of Vortman. I think Vortman's son was taking notes at meeting. I spoke to Plaintiff about transferring plot. He said had no interest in it. No action against me in 1940. First action in 1942. In that action landlord claimed these contracts worthless. I have never claimed these contracts worthless.

Re-examina-
tion.

(d) Defendants' Witness 3—DOV GUTERMAN—Sworn says :—

Defendants'
Witness 3.

40 Manager of Hatzophe Printing Press. I made agreement with Plaintiff, I signed it, my wife did not. I subsequently got mortgage on that house in name of my wife. Since then I have occupied a flat in that house. I was appointed representative to take transfer on behalf of all purchasers. Appointed with Mrs. Ben-Ya'acov I think this in 1939. None of co-owners objected to this appointment. Never invited to Land Registry take transfer. Mann sent a notarial notice to Plaintiff on behalf of all of us. Plaintiff never offered me transfer of proportionate share. I was always ready to accept. I have paid all money due. I moved into my flat after mortgage effect. If Court holds contract void I am

Dov
Guterman.
Examina-
tion.

In the Land Court of Tel-Aviv. ready stay in flat at rent assessed by Rent Tribunal, i.e. LP.2.500 a room for three rooms. I never went back on my agreement. Am still willing take transfer of 3/26 in this house.

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,

continued.
Defendants'
Witness 3.

Dov
Guterman,
continued.
Cross-
examina-
tion.
Re-examina-
tion.

Defendants'
Witness 4.
Meir Wind.
Examina-
tion.
Civil Case
18/44.

Cross-
examina-
tion.

Have no agreement of lease with Plaintiff. I claim that the flat belongs to me. It is mortgage to me. Meeting held about 1939, a few days before Notarial Notice sent. Two Bukharian Jews among purchasers. Not possible I told Plaintiff I did not want them in building. We agreed accept transfer under any conditions whatsoever. I went into possession in June, 1938. There were then 4 other purchasers. We did not then form a committee. When I was appointed member of committee I did not send notarial notice to Plaintiff. I received notarial notice calling on me to form committee or co-operative society. I received 26 September 1939. I did not go to Land Registry after that nor present any documents to Plaintiff to sign. I do not remember if meeting held in August, 1939. Prior to July 1939, I called on Plaintiff to transfer. At that time it is possible there was neither committee nor co-operative society. 10

When I asked for transfer before committee appointed I was at that time prepared accept transfer of my 3/26.

Adjourned to 13.12.44.

(Sgd.) P. C. HUBBARD. 20

13.12.44.

(e) Defendants' Witness 4—MEIR WIND—Sworn says:—

Milkman. In 1939 I took over contract between Trukinsky and Plaintiff. This was as soon as war broke out. I moved into flat only in November. I did not try to go back on my contract. I continued paying monthly under agreement, even after dispute arose. I have three rooms, i.e. 3/26. I have agreed to take this share of the plot and of the building. I am still willing to take transfer of that share. I was never called to Land Registry to take transfer. On contrary, I called on Plaintiff. Plaintiff would not agree even though I was willing to pay LP.85 more for flat at his suggestion. I spoke to him for all of the purchasers, because they all wanted a transfer. I paid owner's taxes on this house, whenever collector came. Then he stopped coming. Plaintiff filed action against me for rent. Flat assessed by Rent Tribunal at LP.6.750 a month for three rooms. If this Court holds contract no good, I am willing to stay on as tenant at that rent. 30

I took over contract about September or October. Went into flat November. I did not pay werko taxes. I paid property tax, as well as tenant's tax. I was certainly still paying municipal taxes in 1940. I made monthly payments under contract to Anglo Palestine Bank. I paid to Bank as late as 1941 or 1942. Paid to Bank because Bank was telling us to pay as Receiver appointed. Never paid anything to Forer himself. I called on Plaintiff to transfer to committee of two persons. I do not remember if it was made in writing. I did notify him a committee had been formed to take transfer. The committee was actually appointed before I took over contract. I was not present when committee appointed, but Trushinsky was. The committee consisted of Guterman and Ben Ya'acov. I do not remember if I signed a Power of Attorney to Guterman 40

and Ben Ya-acov to take transfer. I personally called on Plaintiff to transfer, but I did not send letter. I went personally to see Plaintiff as representative of purchasers. This was in 1941-2. I went many times.

*In the
Land Court
of Tel-Aviv.*

When I took over contract I paid Plaintiff some Promissory Notes due by Trushinsky—LP.25.—. I paid Trushinsky LP.175. The LP.257 mentioned by Plaintiff includes what I paid Trushinsky and what I paid Plaintiff directly and through the Bank. I have paid LP.6 more than the LP.257.

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th

(f) Defendants' Witness 5—PESACH REFUS—Sworn says :—

10 I have here Magistrate Court's files (civil) 6938-6946/42. I am a clerk of the Magistrate's Court, Tel-Aviv, and these files come from the archives of the Magistrate's Court, Tel-Aviv.

November
1944
to
17th
December
1944,
continued.

No Cross-examination.

(g) Defendants' Witness 6—GERSHON MABOVITZ—Sworn says :—

Discharged soldier, before that a labourer. I never went back on my agreement with Plaintiff. I was never called to Land Registry to take transfer. I many times called on Plaintiff to transfer my share. I have two rooms, i.e. 2/26 of the land and everything thereon. I am still ready to accept transfer of that share. Plaintiff claimed rent from
20 me. Rent Tribunal assessed it at LP.5 for the two rooms. If this Court holds agreement not good, I am willing to remain as a tenant. Before I joined army I remember a meeting at Vortman's who is now dead, and who took minute of proceedings, at which meeting a committee of two elected—Mrs. Ben Ya'acov and Guterman. I did not personally speak to landlord about transfer to committee. The committee spoke to Plaintiff on my behalf. I also spoke to him personally several times in the street about transfer to committee. Plaintiff said : "I will, I will." He always found some pretext for putting it off. I paid taxes on this property to Municipality.

*Defendants'
Witness 4.
Meir Wind,
Re-examin-
ation.*

*Defendants'
Witness 5.
Pesach
Refus.
Examina-
tion.
Civil Case
18/44.*

*Defendants'
Witness 6.
Gershon
Mabovitz.
Examina-
tion.
Civil Case
19/44.*

30 There are 24 rooms in the house. There are nine flats. Do not remember if I paid werko. Do not know if my wife did. Discharged from army 1942. After discharge paid only tenant's taxes—paid to Municipality. Paid monthly payments under contract to Mortgage Bank. I am not now paying. I cannot remember when I stopped monthly payments under contract. I made many payments after my discharge. I stopped payments because they said Plaintiff is beginning legal proceedings and playing all kinds of tricks. I stopped payment on advice of other tenants of house. I signed a document in Hebrew which was prepared by Vortman. I can read Hebrew. I read it. It said that we
40 all agreed to nominate the two people to have house in their name. I never went to Notary Public's Office to sign Power of Attorney to these two people. Mr. Ben Ya'acov's personal share in house was 2/24, not 2/26 as Plaintiff was going to convert the two rooms.

*Cross-
examina-
tion.*

Discharged for injury to hand and rheumatism.

Re-examin-
ation.

*In the
Land Court
of Tel-Aviv.*

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.
Defendants'
Witness 7.
Vortman.
Examina-
tion.
Civil Case
18/44.
Cross-
examina-
tion.

(h) Defendants' Witness 7—VORTMAN—Sworn says :—

Clerk in the Municipality. My late father made agreement with Plaintiff in 1937, contract of sale. He died in April, 1940. Myself, my mother and three children live in flat. I did not take out a document or certificate of succession. We moved in on 15th April, 1938. Plaintiff never offered transfer to me of 3/26. He always refused. I never went back on contract, nor did my father. I heard a committee had been elected, when my father was alive. Landlord sued me for rent. Rent Tribunal assessed my flat at LP.7.500 for three rooms. If Court holds agreement bad, I and other members of family willing to stay on as 10 tenants. We are also still willing to accept transfer of 3/26 share.

I want this share registered in my mother's name. I do not know if my mother is still paying LP.2.730 under contract. I know it was paid up to 1942. My mother paid it up to 1942. Other people in our flat—my mother, my sister, and my sister's daughter of 8. We have also sub-let one room. My sister is divorced, so we took her in. My father never made agreement of lease for this flat. I have never paid any rent for this flat. There is no fourth floor except wash-room. Each flat-owner has 1/10 share in wash-house. I was present at meeting when committee elected but I took no interest in it. I have two brothers. 20 Younger one, about 17 in 1939, was present at meeting, but took no part in it. I do not remember if I ever gave Plaintiff any document to sign in connection with transfer.

No Re-examination.

Defendants'
Witness 8.
Michael
Mamanof.
Examina-
tion.
Civil Case
17/44.
Examina-
tion.

(i) Defendants' Witness 8—MICHAEL MAMANOF—Sworn says :—

? ? ?

but I appear on behalf of my wife. Newsvendor. Ester Mamanoff my wife. Contract between my wife and Plaintiff in 1938. I conducted all negotiations with Plaintiff. My wife made payments to landlord. Neither I nor my wife went back on contract. My wife cannot read and write. 30 Speaks Persian, not Hebrew. I know committee of two appointed to take transfer—Guterman and Ben Ya'acov. Incorrect I did not agree to these two people—it is a lie. Plaintiff never invited me to take transfer of my share. On contrary I called on him in writing, an advocate sent registered letter on behalf of my wife. Advocate Needer. There is copy of the letter. (Goitein sees letter—no objection to production—D.1.) Am still willing accept my musha' share in this property. Plaintiff brought action against me and my wife for rent. Assessed by Rent Tribunal at LP.6.750 and we did not agree. It is too high. If this Court decides contract bad in law, I am prepared to stay on in flat as tenant 40 and pay rent according to law. I never had any quarrel with other tenants. My wife has paid for every month even in 1944. She has paid to Mortgage Bank, in name of herself and Plaintiff. He cannot withdraw deposits unless he makes transfer. This is one receipt for a deposit (P.2). Last time my wife to Plaintiff was February, 1941, after that deposits were made. I went to Needer a year after contract when landlord failed to transfer flat. After D.1 I did not get Needer to send another letter asking for transfer to names of committee. I never asked Plaintiff not to transfer to the two members of committee. I and other Bukharian had

different advocates from other seven purchasers in previous proceedings. We could not afford so expensive an advocate as the Ashkenazim. I spoke to Plaintiff several times after Needer's letter asking for transfer to me, or wife, or co-operative society. These conversations went on for two or three months after Needer's letter (D.1). Have never made agreement of lease for this flat, never paid any rent. Am owner of flat by purchase. I have never bought any other flat except the one I am living in now.

Plaintiff said : " Wait there are many attachments."

*In the
Land Court
of Tel-Aviv.*

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th

November
1944 to
17th

December
1944,

*Defendants'
Witness 8.
Michael
Mamanof,
Examina-
tion,
continued.
Cross-
examina-
tion.*

*Defendants'
Witness 9.
Mirakov*

Nissim.
Examina-
tion.

Cross-
examina-
tion.

10 (j) Defendants' Witness 9—MIRAKOV NISSIM, Barber—Sworn says :—

24/44 My brother and I made agreement with Plaintiff. My brother also barber. Agreement 1938. Not true we went back on agreement at outbreak of war. Plaintiff never invited us Land Registry to take transfer musha' share. I am still ready to take it, so is my brother. Knew committee appointed to take transfer Ben Ya'acov and Guterman. I agreed to this. I several times asked Plaintiff to transfer. He said there were encumbrances etc. and used to put me off from time to time. At beginning we paid Promissory Notes to Plaintiff. Then we paid to Bank to credit of received LP.86, then to Bank as deposit LP.70. We also

20 took new share of mortgage for LP.125. I never told Plaintiff his contract bad in law. We paid owner's taxes. Plaintiff brought action in District Court against us for rent. Flat assessed by Rent Tribunal at LP.7.500. If this Court holds agreement bad, we are willing to stay on as tenants.

Have no agreement of lease with Plaintiff, only agreement of sale. I am not a tenant, because we bought flat. I never spoke to Plaintiff after appointment of committee, but I gave promise to committee I would uphold their actions. I was entitled to transfer at August, 1939. I never brought action claiming registration because he put me off from time to time with promises. An action was brought in Magistrate's Court before

30 Dr. Cheshin. We did not bring action against Plaintiff. The area of my flat is set out in the contract. When I bought one or two flats left unsold. I heard there were to be nine flats. I have paid all payments required by contract to Mortgage Bank. Early in 1944 I made last payment. My brother has receipt for this payment. I made no payment in 1944 to Plaintiff. Moneys paid by my brother to Bank were paid in name of Plaintiff so that if he transferred property he could take it. At meeting at Vortman's I was not present, but I told them whatever was resolved I should abide by. I do not know if my brother was present, I was not there.

40 I knew after meeting who was elected and I agreed then.

Re-examin-
ation.

Eliash : Lev is calling no evidence.

Close of case.

DEFENDANTS' COUNSEL'S ADDRESS.

*In the
Land Court
of Tel-Aviv.*

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.
See P.1.
Land Law
Amend-
ment
Ordinance,
1936.

Eliash : Land Court has jurisdiction to decide if contract valid or not, but anything outside that, e.g. as to breach of agreement, is outside jurisdiction.

16/24—Articles 64 (3) of Ottoman Code of Civil Procedure and 2 Mejelle Article 1 of Contract.

Transfer of musha' share of plot carries with it musha' share of everything on plot.

Second part of Article 1—purchaser takes risk as to other co-owners not agreeing. 10

I am entitled to accept lesser performance, namely, transfer of musha' share. Mejelle 426.

Provision for transfer to 2 or 3 purchasers does not make contract illegal.

31 Hailsham, page 441, paragraph 533, and note (i).

42 Empire Digest page 441 item 124 (2).

42 Empire Digest page 578 item 1432.

42 Empire Digest item 1461.

42 Empire Digest page 581 item 1468.

42 Empire Digest page 579 item 1445. 20

42 Empire Digest item 1449.

42 Empire Digest item 1453.

Pollock, on Contract (11th Edition), page 341.

12 Digest, item 3253.

If agreement good, and my client has done her part, then she has a good equitable title to her share of property.

All flats sold for LP.4,800.—. He received from purchasers about LP.2,300.— and he received by way of mortgages something like LP.8,000.—. Purchasers have paid either directly or by having property encumbered much more than they owed. 30

Ben Ya'acov paid LP.234.—, owed LP.266.—, took share of mortgage for LP.301.— (record pages 16 and 17).

Was vendor's duty prepare Land Registry transaction (Current Law Reports, 1937 Civil Appeal 26/36)—did not do so. Civil Appeal No. 114/36.

No need to counterclaim.

Even if no equitable title, equitable lien.

Article 6, alternative way of discharging obligation, alternative to first part of Article 1.

Two obligations under contract, in alternative (1) transfer musha' share of plot and building, and (2) transfer to committee. 40

See File 6398/42—Exhibit No. 1 (Goitein objects to whole file being produced as evidence). Plaintiff should have transferred to name of trustees.

Equitable lien : Civil Appeal 221/38, 5 Palestine Law Reports at page 545.

42 Digest, page 580, item 1467.

Payment into Court in Magistrate's Court does not discharge lien (1) Magistrate's judgment quashed and (2) part of moneys withdrawn. Alternatively, Rent Restrictions Ordinance, Article 472—Mejelle.

*In the
Land Court
of Tel-Aviv.*

(Goitein—this case can come to end to-day if purchasers content pay rent, less sums already paid by purchasers under contracts.)

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.

Brown v. Draper, I, All England Law Reports, page 244.

Civil Appeal 223/44—(All submissions re 16/24 apply all cases).

10 17/44 Mamanov - } Provisions for case where no committee formed,
24/44 Mirakov - } thus musha'a transfer of plot and building.
18/44 Wind Wind continued payments till 1942, till action brought in Magistrate's Court for eviction. Has equitable lien.

19/44 Mabovitz

23/44 Guterman Notarial Public Notice from Plaintiff to Guterman in Civil Case 6938/42 (Goitein objects use of Magistrate's file as evidence).

20/44 Lev - Agree contract on face of it for flat only. 7 Hailsham, paragraph 295, page 212.

20 But clause 12 shows intention my client to have share in common building. See judgment against Lev—Civil Case 3060/41, 20.6.41.

21/44 Mann like 20/44, see clause 7.

22/44 Vortman action bad, all heirs should have been summoned.

In Civil Case 6938/42—Notarial Public Notice from Plaintiff to Vortman (deceased) (Goitein objects to use of file as evidence.)

In alternative contract good. Asks for decision contracts are good—for judgment in his favour.

Adjourned to 17th December at 9.30 a.m.

(Sgd.) P. C. HUBBARD.

17.12.44.

30

PLAINTIFF'S COUNSEL'S ADDRESS.

Goitein: Last purchaser, Mrs. Ben-Ya'acov, bought her flat near outbreak of war. Meeting, at which alleged her present and appointed, was in August when war very near. Purchasers wanted to get money back. When Plaintiff sued for instalments of purchase price Defendants raised plea that contract void. Plaintiff has in consequence to take up money on mortgage. Plaintiff quite prepared to transfer house at time when transfer due.

40 Civil Case 17/44 { Proportion of plot would vary with number of rooms
owned at different times by other flat-owners.
Civil Case 20/44 { Lev might not own a flat at all in this building.
Proportion of plot if fourth floor built.

Mamanoff and Mirakov—Shares of plot and building also unknown.

Consideration is stated in every case to be for a flat, and not for a share.

Each contract has liquidated damages clause.

Mrs. Guterman never signed contract—23/44. Civil Appeal 29/33—3 Collection of Judgments of the Court of Palestine 1919–1933 page 1108; Civil Appeal 200/35—1 Current Law Reports page 113.

*In the
Land Court
of Tel-Aviv.*

No. 28.
Proceedings
in
Land Case
No. 16/44
(with which
all other
cases have
been con-
solidated),
20th
November
1944 to
17th
December
1944,
continued.

Guterman and Ben-Ya'acov—contracts declared nullities in Civil Case 4931—32/40 (Magistrate's Court, Tel-Aviv).

Court bound by judgment in Civil Case 283/43 ; Civil Appeal 115/41—8 Palestine Law Reports page 296.

In every case there is a sale of immovable property outside Tabu and therefore bad :—

(1) In no case date for transfer—18/44 sale outside Tabu Trushinsky to Wind.

(2) Money was paid for purchase of *flat* Land Transfer Ordinance Sections 4, 11, 12. All contracts bad for uncertainty :

(1) Uncertain what is being transferred.

(2) Uncertain to whom it is being transferred.

(3) Only thing certain is that Plaintiff is transferer.

Mejelle Article 210.

No agreement with other flat owners.

Committee or two or three purchasers must be named. Illegal attempt frustrate purposes of Land Transfer (Amendment) Ordinance, 1937.

Impossible to register building in name of committee, because they would be only nominees. There never was a committee—contradictions in evidence. Committee never sent any letter to Plaintiff to transfer property. Plaintiff quite reasonably asked for signature to show other purchasers agreed committee. No Power of Attorney to committee. It was for purchasers to call Plaintiff to Land Registry.

Cannot be private trust in Palestine. In any case no trust created. Palestine Law Reports I, pages 735–36. Land Appeal 1/36 (Collection of Judgments of the Courts of Palestine 1934–1936 page 340 at page 350), Civil Appeal 168/43 (10 Palestine Law Reports 371). Can Land Court enforce payment over 20 years? Too many things to be done under contract.

Delay on part of purchasers in claiming their equitable rights, if any. English Reports, Volume 55, page 771, case of Earl of Durham, 34, 5th Report.

Equitable lien : Civil Appeal 221/38 (cited by Eliash). All money was paid in and could have been taken out before Cheshin's judgment delivered. Purchasers did not take it. Then judgment in Civil Case 283/43. Some of money paid in has been withdrawn, but Judge Ross's judgment for cash exceeds all owed to 9 Defendants.

Statutory Tenants : Civil Appeal 42/44 (Tel-Aviv) upheld by Court of Appeal. Civil Appeal 285/44 and Civil Appeal 42/44. Pollock on Contracts page 342. Current Law Reports I, page 82—Civil Appeal 48/37 and Civil Appeal 52/36.

Adjourned to Thursday.

No. 29.
JUDGMENT.

Land Case No. 16/44.

Before HIS HONOUR THE R/PRESIDENT JUDGE HUBBARD.

In the Case of :—

JOSEPH FORER - - - Plaintiff

v.

- | | | | |
|----|---------------------|--|-----------------------|
| | 1. B. BEN-YA'ACOV | | (Land Case No. 16/44) |
| | 2. ESTHER MAMANOFF | | (Land Case No. 17/44) |
| 10 | 3. M. WIND - - - | | (Land Case No. 18/44) |
| | 4. GERSHON MABOVITZ | | (Land Case No. 19/44) |
| | SHIFRA MABOVITZ | | (Land Case No. 19/44) |
| | 5. R. LEV - - - | | (Land Case No. 20/44) |
| | 6. B. MANN - - - | | (Land Case No. 21/44) |
| | 7. B. VORTMAN - - - | | (Land Case No. 22/44) |
| | Y. VORTMAN | | (Land Case No. 22/44) |
| | 8. DOV GUTERMAN | | (Land Case No. 23/44) |
| | 9. DVORA GUTERMAN | | (Land Case No. 23/44) |
| | N. MIRAKOV-COHEN - | | (Land Case No. 24/44) |
| 20 | M. MIRAKOV-COHEN - | | (Land Case No. 24/44) |

Defendants.

Consolidated by order of the court dated 11th December, 1944.

JUDGMENT.

These are nine consolidated actions in which the Plaintiff prays a declaration of ownership and ancillary reliefs on the ground that the nine agreements by which he undertook to sell to the Defendant nine flats in one building are all void.

Mr. Eliash, on behalf of the Defendants, contends that all the agreements, either on the face of them or on a fair and proper construction, are good, and that the Defendants are entitled to resist the Plaintiff's claim, either on the ground that they have fulfilled their obligations under the agreements and being, therefore, in a position to enforce the agreements by actions for specific performance, have an equitable title to the property, or in the alternative, that they are entitled to plead in defence that they have an equitable lien on the property for the return of the purchase moneys paid under their agreements. I do not propose to go into the financial relations between the Plaintiff and the Defendants because, in my view, they are irrelevant.

The object of these nine contracts was to vest in each of the purchasers a flat in the Plaintiff's building. There is no dispute that it is legally impossible to transfer a flat in the Land Registry, nor that such a disposition is illegal if made outside the Land Registry. The question is whether any of the agreements under discussion has succeeded in effecting the object aimed at.

*In the
Land Court
of Tel-Aviv.*

No. 29.
Judgment,
Land Case
No. 16/44,
21st
December
1944.

*In the
Land Court
of Tel-Aviv.*

No. 29.
Judgment,
Land Case
No. 16/44,
21st
December
1944,
continued.

Each of the nine agreements speaks in the preamble of the sale of a flat. The agreement in cases numbers in 16, 17, 18, 19, 23 and 24, repeat the undertaking to sell a flat in clause 1, but the same clause contains also an undertaking to sell and to transfer a share in the plot on which the building stands, which share shall bear the same proportion to the total plot as the number of rooms occupied by the purchaser shall bear to the total number of rooms owned by all the flat-owners together. This is obviously what is meant, although the language of the agreements is somewhat elliptical.

This device, however, does not succeed in its objects, since, if it be regarded as the transfer of a divided share, the purchaser would be the owner of all the flats in the three floors of the building lying immediately above his share of the plot, and not of one flat only, and if it be regarded as the transfer of an undivided share, then the purchaser would merely have a certain share in each part of the building. 10

By another clause, however, in the same six agreements it is provided that the Plaintiff will transfer the whole of the building and the plot, in one case to two or three of the purchasers, and in the other five cases to a committee or a co-operative society, to be formed by all the flat-owners, to hold the same on behalf of the flat owners. This is in contradiction to the undertaking to transfer to the individual purchasers. 20
But the contract must be construed as a whole, and if the transfer to a committee enables the Plaintiff and the Defendants to effect their object, then I see no reason why this undertaking should not be held good. On examination, however, it is clear that it is legally unworkable. In the first place, although this might not be insuperable in view of Article 64 (3) of the Civil Procedure Code, there is the uncertainty as to who the transferees are to be. Secondly, the purchasers are not all parties to one agreement, and each agreement depends for its effectiveness on the co-operation of strangers to it. Finally, the committee are clearly nominees within 30
the meaning of section 5 of the Land Transfer Ordinance, and when they came to register the transfer of the property they would find that it had to be registered not in their own names, but in the names of their principals whose shares of the building, that is to say, their separate flats, are incapable of registration. So that we come back to where we started from.

It was suggested during the course of the trial that the committee might be regarded as trustees in the English sense. This is quite impossible since they are not named, and also since the interests of the beneficiaries are uncertain, a point to which I shall refer later. I wish, however, to guard against being understood as laying down that such a trust for the 40
benefit of the flat-occupiers for the time being could not be brought into existence by the execution of a proper document. This is a matter on which I express no opinion either way.

In the agreements in cases 17 and 24 there is a further provision which reads as follows:—"In the event that such a committee or co-operative society shall not be formed within one year from the day of signing this contract, the first party shall transfer to the second party his share in the plot and in the building as aforesaid musha." I find as a fact on the evidence that no committee was ever formed with the consent of all the flat-owners. Now the words "his share in the plot 50

and in the building as aforesaid" can only mean on any reasonable construction of them, his share of the plot as indicated in clause 1 and his flat as similarly indicated, which, according to the whole tenor of the agreement, is his share in the building. A flat cannot be transferred either musha or otherwise and, therefore, the undertaking is legally impossible of enforcement. Even if the words could be construed, as Mr. Eliash sought to construe them, to mean that the purchaser is to take the defined share in the plot and building together, mush' then firstly it would not carry out the intention of the parties that the purchaser should have one specific flat, and secondly, as Mr. Goitein for the Plaintiff pointed out, even the purchaser's share in the plot is undefined. These two agreements do not themselves specify how many rooms the house contains; they do not specify how many other flat-owners there are; and at the time when these agreements were signed the number of other flat-owners, and consequently the number of rooms owned by all the flat-owners at that time, was less than it became a year later when the purchaser in case 16 signed her agreement. There is no agreement between the various purchasers, nothing to bind them to co-operate, and yet the whole scheme depends for its effectiveness on there being some legal nexus between them.

There is an additional objection to the agreement in case 23, namely that one of the parties to it, the second Defendant in that case, never signed it, and it is for that reason void.

For these reasons I come to the conclusion that all the six agreements I have considered so far are legally incapable of performance "ab initio" and are, therefore, void.

As regards the agreements in cases 20 and 21, these are solely for the sale of a flat, without any mention of the sale of the land, although there is a reference in clause 12 of the former and clause 7 of the latter to a transfer of the building at the Land Registry into the names of the purchasers. Both these agreements are clearly void.

Finally, as regards the agreement in case 22, this contains in the preamble an undertaking to sell a flat together with an undertaking in clause 5 to transfer the building to the "name of the committee which the partners will elect." The wording of the preamble, however, is peculiar. It speaks of "a flat in the said house in the first floor . . . that is to say, three shares out of 26 shares in which the house is divided together with the plot of land and three shares out of 26—to build a fourth floor—in accordance with the plan certified by the Municipality of Tel-Aviv." I have considered whether it is possible to give effect to this somewhat confused wording, but I do not think so. The object of this contract is the same as that of the others. The consideration is expressed in clause 1 to be for the flat only. The undertaking in clause 5 is to transfer at the Land Registry the building only. If the purchaser defaults in payments of instalments, the vendor may sell the flat to another person (clause 4), and the purchaser himself is entitled to sell the flat to another (clause 10). I am of the opinion that this agreement is also for the sale of a flat.

All the flat-owners are willing to take Musha shares in the plot and building instead of taking specific flats, and Mr. Eliash, relying on certain English authorities, contended that they were entitled to enforce a lesser

*In the
Land Court
of Tel-Aviv.*

No. 29.
Judgment,
Land Case
No. 16/44,
21st
December
1944,
continued.

*In the
Land Court
of Tel-Aviv.*

No. 29.
Judgment,
Land Case
No. 16/44,
21st
December
1944,
continued.

performance of their agreements. But clearly if there are no agreements, there can be no performance of them, lesser or otherwise. The same objection is valid as regards the claim of an equitable lien. An equitable lien for the return of purchase money can only arise where there is an enforceable contract.

In the result, therefore, it appears to me that all these nine actions succeed. The remedy of the Defendants as regards their purchase money, in so far as the Plaintiff has not a good set-off in respect of the judgment in his favour for equivalent rent in Civil Case 283/43, is, in my view, by way of action for money had and received, on the ground that the consideration has totally failed. 10

There was one other point taken by Mr. Eliash, which I cannot think was very seriously raised, and that is that the Defendants are tenants protected by the Rent Restrictions (Dwelling Houses) Ordinance, 1940. They themselves maintain that they are owners, the manifest intention of the agreements was to sell to them and they have never proved or alleged any taking on hire of the flats. The fact that they were adjudged to pay equivalent rent because they were occupying the flats without the consent of the Plaintiff obviously cannot give them the right to maintain that they are tenants. 20

Judgment is, therefore, given for the Plaintiff in all nine consolidated actions, and declarations will issue as prayed. The Plaintiff to have his disbursements in each case and an advocate's fee of LP.12.- in each case (to include all advocate's profit costs).

JUDGMENT DELIVERED in open Court this 21st day of December, 1944, in presence of both parties.

(Sgd.) P. C. HUBBARD,
R/President.

ORDER.

Execution stayed for thirty days. 30

(Sgd.) P. C. HUBBARD,
R/President.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

**No. 30.
NOTICE OF APPEAL.**

IN THE SUPREME COURT,
Sitting as a Court of Appeal,
Jerusalem.

Civil Appeal No. 16/45.

BRACHA BEN-YA'ACOV - - - Appellant
v.
JOSEPH FORER - Respondent.

40

No. 30.
Notice of
Appeal,
C.A.
No. 16/45,
19th
January
1945.

Appeal is respectfully made from the judgment of the Land Court, Tel-Aviv, in Land Case 16/44 (with which other cases were consolidated), delivered on 21.12.1944 in presence of the parties, whereby Respondent succeeded in his action for a declaration that he is the sole owner of the land and house known as 24, Hashoftim Street, Tel-Aviv and the sole

person having a right in or over the said land and house, with further ancillary declarations and costs and advocate's fees.

The following grounds of appeal are respectfully urged :—

(A) The Court below erred in arriving at the conclusion that the contract between the parties is legally incapable of performance, and therefore void.

10 (B) The contract expressly contemplates legal performance by means of a transfer of a share in the plot and building, and an agreement to occupy a given flat. Such transfer was the governing obligation, with an ancillary provision of a possible transfer of the whole plot and house to a committee or to trustees. The contract intended to embody the consensus of the parties to achieve an object prevalent in Palestine, and introduced in order to meet a true and pressing need. The method prescribed in the contract hardly merits the name of a "device," and in so far as it was a device to adopt a perfectly legal transaction to existing legal forms, the Court below erred in holding that the device applied in the contract did not succeed.

20 (C) The Court below further erred in holding that a transfer could not have been lawfully effected in the name of nominees.

(D) The Court below also erred in finding that the contract contemplated registration of separate flats, whereas only registration of land was required, which in law confers corresponding rights to everything in, on and over the land, and admits of a further agreement on the method of enjoying the common property.

30 (E) The Court below further erred in holding that registration in the name of trustees was not feasible, as the interests of the beneficiaries were uncertain. "Everything is certain that can be made certain"; the interest of each of the beneficiaries was certain, for it was the proportion of the property which the Court below clearly defined in paragraph 4 of its judgment.

(F) The finding of the Court below that no committee was formed with the consent of all flat owners, is contrary to the weight of the evidence.

(G) The Court below erred in holding that in the absence of a binding agreement between all the purchasers, each agreement was null and void ab initio.

40 (H) The Court below erred in holding that Appellant was not entitled to lesser performance, if Appellant could not obtain all Appellant had bargained for.

(I) The Court below erred in deciding that no equitable lien had arisen, and since Respondent had in his action contended that the lien was only discharged by the deposit already made by him, the Court below erred in releasing Respondent from the lien altogether.

(J) The Court below erred in disregarding the statutory protection of Appellant in all the circumstances of the present case.

50 Wherefore it is prayed that this appeal may be allowed, the judgment of the Court below be set aside and Respondent's action be dismissed, with costs and advocate's fees here and in the Court below.

(Sgd.) M. ELIASH,
Attorney for Appellant.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

—
No. 30.
Notice of
Appeal,
C.A.
No. 16/45,
19th
January
1945,
continued.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 31.
Notice of
Appeal,
C.A.
No. 17/45,
19th
January
1945.

No. 31.

NOTICE OF APPEAL.

Civil Appeal No. 17/45.

1. NISSIM MIRAKOV COHEN,
2. MALKIEL MIRAKOV COHEN - - Appellants

v.

JOSEPH FORER - Respondent.

(Same as No. 30, p. 34, with addition of ground (G).)

(G) The Court below wrongly construed the clause stipulating expressly for a Musha' transfer of a share in the plot and building. The Court 10 relied on the fact that such Musha' transfer would not transfer ownership to a definite flat, but disregarded the express wording of the agreement, viz., "shall transfer to the second party his share in the plot and in the building as aforesaid Musha'." Such transfer of the land was clearly possible in accordance with law and would have been consonant with the agreement of the parties.

(Sgd.) M. ELIASH,
Attorney for Appellants.

No. 32.
Notice of
Appeal,
C.A.
No. 18/45,
19th
January
1945.

No. 32.

NOTICE OF APPEAL.

20

Civil Appeal No. 18/45.

1. DOV GUTERMAN,
2. DVORA GUTERMAN - - - Appellants

v.

JOSEPH FORER - - - Respondent.

(Same as No. 30, p. 34, with the addition of ground (κ).)

(κ) The Court below erred in taking of its own motion a point not raised by Respondent in his pleadings and not in issue, namely lack of signature of the contract by the Second Appellant.

(Sgd.) M. ELIASH, 30
Attorney for Appellants.

No. 33.
NOTICE OF APPEAL.

Civil Appeal No. 19/45.

1. BLUMA VORTMAN,
2. YA'ACOV VORTMAN,

in their personal capacity as heirs and as legal
representatives of the estate of the late SIMHA
VORTMAN, deceased

- Appellants

v.

10 JOSEPH FORER - - - - Respondent.

(Same as No. 30, p. 34, except ground (E).)

(E) The Court below further erred in holding that registration in the name of trustees was not feasible, as the interests of the beneficiaries were uncertain. In fact the shares to be transferred were set out at the beginning of the contract.

(Sgd.) M. ELIASH,
Attorney for Appellants.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 33.
Notice of
Appeal,
C.A.
No. 19/45,
19th
January
1945.

No. 34.
NOTICE OF APPEAL.

Civil Appeal No. 20/45.

20 BENJAMIN MANN - - - - Appellant

v.

 JOSEPH FORER - - - - Respondent.

30 Appeal is respectfully made from the judgment of the Land Court, Tel-Aviv, in Land Case 21/44 (consolidated with Land Case No. 16/44), delivered on 21.12.1944 in presence of the parties, whereby Respondent succeeded in his action for a declaration that he is the sole owner of the land and house known as 24, Hashoftim Street, Tel-Aviv, and the sole person having a right in or over the said land and house, with further ancillary declaration and costs and advocate's fees.

The following grounds of appeal are respectfully urged :—

(A) The Court below erred in arriving at the conclusion that the contract between the parties is void.

(B) A fair inference from clause 7 of the contract would be that it contemplates legal performance by means of a transfer of a share in the plot and building, and an agreement to occupy a given flat. The contract intended to embody the consensus

No. 34.
Notice of
Appeal,
C.A.
No. 20/45,
19th
January
1945.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 34.
Notice of
Appeal,
C.A.
No. 20/45,
19th
January
1945,
continued.

of the parties to achieve an object prevalent in Palestine, and introduced in order to meet a true and pressing need. The method prescribed in the contract hardly merits the name of a "device," and in so far as it was a device to adapt a perfectly legal transaction to existing legal forms, the Court below erred in holding that the device applied in the contract did not succeed.

(C) The Court below erred in holding that Appellant was not entitled to lesser performance, if Appellant could not obtain all Appellant had bargained for.

(D) The Court below erred in deciding that no equitable 10
lien had arisen, and since Respondent had in his action contended that the lien was only discharged by the deposit already made by him, the Court below erred in releasing Respondent from the lien altogether.

(E) The Court below erred in disregarding the statutory protection of Appellant in all the circumstances of the present case.

Wherefore it is prayed that this appeal may be allowed, the judgment of the Court below be set aside and Respondent's action be dismissed, with costs and advocate's fees here and in the Court below. 20

(Sgd.) M. ELIASH,
Attorney for Appellant.

No. 35.
Notice of
Appeal,
C.A.
No. 21/45,
19th
January
1945.

**No. 35.
NOTICE OF APPEAL.**

Civil Appeal No. 21/45.

ESTHER MAMANOV	-	Appellant
	<i>v.</i>	
JOSEPH FORER	-	Respondent.

(Same as No. 30, p. 34, with the addition of (G).)

(G) The Court below wrongly construed the clause stipulating 30
expressly for a Musha'a transfer of a share in the plot and buildings. The Court relied on the fact that such Musha'a transfer would not transfer ownership to a definite flat, but disregarded the express wording of the agreement, viz. "shall transfer to the second party his share in the plot and in the building as aforesaid Musha'a." Such transfer of the land was clearly possible in accordance with law and would have been consonant with the agreement of the parties.

(Sgd.) M. ELIASH,
Attorney for Appellant.

No. 36.
NOTICE OF APPEAL.

Civil Appeal No. 22/45.

REUVEN LEV

Appellant

v.

JOSEPH FORER

Respondent.

(Same as No. 34, p. 37, with the exception of ground (B).)

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 36.
Notice of
Appeal,
C.A.

No. 22/45,
19th
January
1945.

10 (B) A fair inference from clause 12 of the contract would be that it contemplates legal performance by means of a transfer of a share in the plot and building, and an agreement to occupy a given flat. The contract intended to embody the consensus of the parties to achieve an object prevalent in Palestine, and introduced in order to meet a true and pressing need. The method prescribed in the contract hardly merits the name of a "device," and in so far as it was a device to adapt a perfectly legal transaction to existing legal forms, the Court below erred in holding that the device applied in the contract did not succeed.

(Sgd.) M. ELIASH,

Attorney for Appellant.

No. 37.
NOTICE OF APPEAL.

Civil Appeal No. 23/45.

20

MEIR WIND

Appellant

v.

JOSEPH FORER

Respondent.

(Same as No. 30, p. 34.)

No. 37.
Notice of
Appeal,
C.A.
No. 23/45,
19th
January
1945.

No. 38.
NOTICE OF APPEAL.

Civil Appeal No. 24/45.

30

GERSHON MABOVITZ,
SHIFRA GERSHONOVITZ

Appellants

v.

JOSEPH FORER

Respondent.

(Same as No. 30, p. 34.)

No. 38.
Notice of
Appeal,
C.A.
No. 24/45,
19th
January
1945.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

**No. 39.
JUDGMENT.**

Civil Appeals Nos. 16-24/45.

Before MR. JUSTICE SHAW.

No. 39. Judgment in C.A.'s Nos. 16-24/45, 26th September 1945.	In the Appeal of— Civil Appeal No. 16/45 BRACHA BEN YA'ACOV - - - v. JOSEPH FORER - - - - -	Appellant Respondent.	
	Civil Appeal No. 17/45. 1. NISSIM MIRAKOV COHEN 2. MALKIEL MIRAKOV COHEN v. JOSEPH FORER - - - - -	Appellants Respondent.	10
	Civil Appeal No. 18/45. 1. DOV GUTERMAN 2. DVORA GUTERMAN - - v. JOSEPH FORER - - - - -	Appellants Respondent.	
	Civil Appeal No. 19/45. 1. BLUMA VORTMAN 2. YA'ACOV VORTMAN in their personal capacity as heirs and as legal representatives of the estate of the late SIMHA VORTMAN - - - - - v. JOSEPH FORER - - - - -	Appellants Respondent.	20
	Civil Appeal No. 20/45. BENJAMIN MANN - - - v. JOSEPH FORER - - - - -	Appellant Respondent.	30
	Civil Appeal No. 21/45. ESTHER MAMANOV - - - - - v. JOSEPH FORER - - - - -	Appellant Respondent.	
	Civil Appeal No. 22/45. REUVEN LEV - - - - - v. JOSEPH FORER - - - - -	Appellant Respondent.	
	Civil Appeal No. 23/45. MEIR WIND - - - - - v. JOSEPH FORER - - - - -	Appellant Respondent.	40

Civil Appeal No. 24/45.

1. GERSHON MABOVITZ
2. SHIFRA GERSHONOVITZ

Appellants

v.

JOSEPH FORER

Respondent.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

Appeal from the judgment of the Land Court, Tel-Aviv, dated 21-12-44
in Land Cases Nos. 16-24/44 consolidated.

No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
26th
September
1945,
continued.

For Appellants : Messrs. M. Eliash and M. Scharf.

For Respondents : Mr. E. D. Goitein.

10 These nine appeals have been consolidated under the provisions of rule 304 of the Civil Procedure Rules 1938, but Mr. Eliash has asked that each appeal be dealt with on its merits and that care be taken that no one appeal be allowed to be prejudiced by the demerits of another.

Various points have been taken on appeal, but the real question in each case is whether the contract between the Appellant and the Respondent was void or not. Nine separate actions were instituted in the Court below by the Respondent against the present Appellants. The corresponding numbers are as follows :—

	SUPREME COURT NO.		APPELLANT		LAND COURT NO.
20	16/45		Bracha Ben-Ya'acov	16/44
	17/45	1.	Nissim Mirakov Cohen	24/44
		2.	Malkiel Mirakov Cohen		
	18/45		Dov Guterman	23/44
	19/45	1.	Bluma Vortman	22/44
		2.	Ya'acov Vortman		
	20/45		Benjamin Mann	21/44
	21/45		Esther Mamanov	17/44
	22/45		Reuven Lev	20/44
	23/45		Meir Wind	18/44
30	24/45		Gershon Mabovitz	19/44

Mr. Eliash has given an outline of the circumstances leading up to the present appeal. He has told the Court that the demand for flats which can be owned for life has given rise to the erection of buildings known as "Bayit Meshutaf," which he translates as meaning "a house of common ownership." Such a building is put up by a capitalist contractor, who then proceeds to sell the land and building to purchasers, who are each allotted a separate flat, and who have the common use of certain parts of the building such as the staircase. Such a building is sometimes erected co-operatively.

40 It may be observed here that both parties agree that under the present law it is not possible to obtain a title-deed for a particular flat in a building. In other words a building cannot be registered separately from the land on which it stands.

To return to what Mr. Eliash has told the Court—he says that whether the building is erected co-operatively, or by a capitalist contractor, the registration is eventually effected either in the name of a committee of two or three tenants, or in the name of a co-operative society formed of all the tenants, or each purchaser obtains a registered undivided (musha'a) share

*In the
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No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
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September
1945,
continued.

in the house and land in the ratio which the number of rooms in his flat bears to the total number of rooms in the building. The result aimed is that each purchaser should acquire a particular flat for life, together with the common use of certain portions of the building.

This, of course, is clearly a device (I do not use the word in any sinister sense) for overcoming the difficulty arising from the fact that the present law does not allow the registration of a building separately from the land on which it stands. It is obviously not morally wrong on the face of it, or against public policy, that anyone should wish to obtain a flat in which he can reside for life. On the contrary, it seems to be a very reasonable ambition. The only question is whether the present Appellants, when they entered into contractual relations with the Respondent for this quite reasonable purpose, made contracts which were valid in law. If the agreements which they made were void then, of course, these appeals must fail, and the Respondent must be held still to be the owner of the land and the building, and entitled to exercise his rights as owner. 10

As all of the agreements are not in identical terms I think it is advisable for me to refer briefly to their salient features as far as is necessary for the purpose of these appeals.

Civil Appeal 16/45—Land Case 16/44—Contract dated 21.5.39. 20

The preamble refers to a house of common ownership consisting of 10 flats and containing 26 rooms, and it sets out that the first party (i.e. Respondent) has agreed to sell and the second Respondent (i.e. Mrs. Brach Ben-Ya'acov) has agreed to purchase a flat.

Art. 1 provides that the first party undertakes to sell and to transfer to the second party a part of the above plot (referred to in the preamble) consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. It further provides that the first party undertakes as well to sell and to hand over to the second party a flat containing three rooms, a kitchen, a bathroom and a w.c., and also, together with the other flat-owners, the staircase, washing-room, the garden and the roof. 30

Art. 2 states that the price of the above flat has been fixed by both parties at LP.500.—, and that the second party undertakes to pay LP.200.— in cash at the time of signing the contract, and LP.300.— in cash at the time of transfer of the plot and building at the Land Registry Office to the names of two or three of the purchasers of the flats in the above building of common ownership. 40

Art. 3 states that the second party has seen the flat and has agreed to purchase it.

Art. 4 speaks of the handing over of the flat in good condition, repaired and arranged as requested by the second party.

Art. 5 empowers the second party to sell and hand over the flat to another person without the consent of the first party.

Art. 6 provides that the first party undertakes to transfer the above plot and the whole building thereon to the name of two or three of the purchasers of the flats in the house of common ownership,

who will hold it in favour of all the purchasers of the flats in the above house, during 10 days from the day when the request will be made by the purchasers of the flats, and not later than 1.12.39.

It may be observed here that this contract is the last in date.

Art. 8 provides for damages for a breach of the contract.

Civil Appeal 17/45—Land Case 24/44—Contract dated 8.8.38.

The preamble refers to a house of common ownership and to the fact that the second party (Malkiel and Nissim Mirakov Cohen) has agreed to purchase a flat.

Art. 1 provides that the first party undertakes to sell and transfer part of the plot (described) consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. It further provides that the sale includes also part of the building erected on the above-mentioned plot, namely, it includes a flat in the third floor consisting of three rooms, a kitchen, a bathroom and w.c. and also together with the other flat-owners, the staircase, washing-room the garden and the roof, which the first party has to place at any time at the disposal of the purchaser as common owners.

Art. 2 states that the price of the flat to be LP.600.— and fixed the instalments.

Art. 3 speaks of the transfer in the Tabu of the building in the name of all the purchasers.

Art. 4 speaks of the handing over of the flat at the time required by the second party and not later than two weeks from the signing of the contract.

Art. 5 speaks of the transfer at the Land Registry of the aforesaid plot and the whole of the building erected thereon to a committee, or to a co-operative society of the house in common ownership, which shall be formed by all the flat-owners, at any time that he (i.e. the first party) will be required to do so by any of the flat-owners. It further provides that in the event of such committee or co-operative society not being within one year from the day of signing the contract, the first party shall transfer to the second party his share in the plot and building as musha'a.

Art. 9 provides that the second party shall be entitled to hand over or to sell the aforesaid flat to another without the consent of the first party.

Art. 12 provides for liquidated damages for breach of the agreement. Civil Appeal 18/45—Land Case 23/44—Contract dated 6.7.38.

The preamble states that the first party has built a house of common ownership and has offered to sell to the second party a flat in the aforesaid house.

Art. 1 provides that the first party undertakes to sell and to transfer to the second party a part of the plot (described) consisting of an area to be in proportion to the number of rooms to be owned

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Court
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Jerusalem.*

—
No. 39.

Judgment
in
C.A.'s Nos.
16-24/45,
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September
1945,
continued.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
26th
September
1945,
continued.

together with the other flat-owners. It further states that the contract of sale includes also a part of the building erected on the above mentioned plot, namely, a flat in the second floor consisting of three rooms, a kitchen, a bathroom and w.c., and also, together with the other flat-owners, the staircase, washing-room, the garden and the roof.

Art. 2 fixes the price of the flat at LP.500.— and provides for the manner of payment.

Art. 3 speaks of the handing over of the flat not later than one week from the day of signing the contract. 10

Art. 4 provides that the first party undertakes to transfer at the Land Registry the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership, which shall be formed by all the flat-owners.

Art. 9 provides that the second party shall be entitled to hand over or sell the aforesaid flat to another without the consent of the first party.

Art. 11 provides for damages for breach of the agreement.

Civil Appeal 19/45—Land Case 22/44—Contract dated 9.11.37. 20

The preamble states that the first party builds a house in common ownership and agrees to sell to the second party a flat in the said house, consisting of three rooms, a kitchen, a bathroom and w.c., that is to say three shares out of 26 shares in which the house is divided, together with the plot of land and three shares out of 26—to build a fourth floor [*sic*—in accordance with the plan certified by the Municipality of Tel-Aviv. It further states that the second party agrees to purchase this flat.

Art. 1 provides that the second party undertakes to pay for the said flat LP.600 and it fixes the instalments.

Art. 4 provides that if the second party breaks the contract by non-payment of the bills the first party will be entitled to sell the flat to another person on account of the second party. 30

Art. 5 provides that the first party will transfer in the Land Registry all the building in the name of the committee which the partners will elect.

Art. 10 provides that the second party is entitled to hand over or to sell the flat to another.

Art. 11 provides that the second party undertakes to obey the divisions given by the majority of the partners to this house which is owned in common. 40

Arts. 12 & 13 provide for damages for breach of the contract.

Civil Appeal 20/45—Land Case 21/44—Contract dated 1.2.38.

The preamble states that the first party has built a house of common ownership and agrees to sell to the second party a flat consisting of two rooms, a kitchen, bathroom and w.c.

Art. 1 provides that the second party agrees to pay for the said flat LP.500 and fixes the instalments.

Art. 8 provides that the second party is entitled to hand over or to sell the flat to another.

Arts. 9 & 10 deal with the question of damages for breach of the contract.

At the end of this contract there is a paragraph which states that the first party will transfer, in the Land Registry, all the building in the name of the committee which will be elected by all the members, at any time required.

Civil Appeal 21/45—Land Case 17/44—Contract dated 26.5.38.

The preamble states that the first party has built a house of common ownership and has offered to the second party a flat in the aforesaid house which the second party has agreed to purchase.

Art. 1 provides that the first party hereby undertakes to sell and transfer to the second party part of the plot (described) consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. It further provides that the sale includes also part of the building erected on the above-mentioned plot, namely, it includes a flat in the second floor consisting of three rooms, a kitchen, bathroom and w.c., and also together with the other flat-owners the staircase, washing-room, the garden and the roof, which the first party has to place at any time at the disposal of the purchaser as common owner.

Art. 2 fixes the price of the aforesaid flat at LP.550.— and states the instalments.

Art. 3 speaks of the return of a certain bill to the first party on the day of the transfer in the Tabu of the building in the name of all the purchasers.

Art. 4 provides for the handing over of the flat at the time required by the second party and not later than two weeks from the signing of this deed.

Art. 5 provides that the first party undertakes to transfer, at the Land Registry, the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership, which shall be formed of all the flat-owners, at any time that he will be required to do so by any of the flat-owners. It further provides that in the event that such a committee or co-operative society shall not be formed within one year of the date of signing the deed, the first party shall transfer to the second party his share of the plot and the building as aforesaid, *musha'a*.

Art. 9 provides that the second party shall be entitled to hand over or to sell the aforesaid flat to another party without the consent of the first party.

Art. 12 provides for damages in the event of breach of the agreement.

Civil Appeal 22/45—Land Case 20/44—Contract dated 6.10.37.

The preamble states that the first party is building a house of common ownership and has agreed to sell to the second party a flat consisting of two rooms, kitchen, bathroom and w.c.

Art. 1 provides that the second party agrees to pay for the above flat the sum of LP.500 in the manner stated.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
26th
September
1945,
continued.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
26th
September
1945,
continued.

Art. 7 provides that the first party is entitled to sell the flat to another without asking for the consent of the second party, and to pay to the second party the amount which he invested in the flat.

Art. 13 provides that the second party shall be entitled to hand over or to sell the flat to another.

Arts. 14 & 15 deal with the question of damages for breach of the contract.

Civil Appeal 23/46—Land Case 18/44—Contract dated 15.5.39.

The preamble sets out that the first party has built a house of common ownership and has offered to sell to the second party a flat which the second party has agreed to purchase. 10

Art. 1 provides that the first party undertakes to sell and to transfer to the second party part of the plot (described) consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. It further states that this agreement of sale includes also part of the building erected on the above mentioned plot, namely, a flat in the first floor consisting of three rooms, a kitchen, bathroom and w.c., and also together with the other flat-owners, the 20 staircase, etc.

Art. 2 provides that the price of the flat is fixed at LP.550 payable in the manner stated.

Art. 3 provides that the first party undertakes to hand over to the second party the above flat not later than three months from the date of the contract and fixes damages in the event of delay.

Art. 4 provides that the first party undertakes to transfer at the Land Registry the above plot and the whole of the building erected thereon to the committee or the co-operative society 30 of the house owned in common, which will be formed by all the flat-owners.

Art. 8 provides that the second party shall be entitled to hand over or to sell the flat to another party without the consent of the first party.

Civil Appeal 24/45—Land Case 19/44—Contract dated 17.2.39.

The preamble states that the first party has built a house of common ownership, and has offered to the second party a flat which the second party has agreed to purchase.

Art. 1 provides that the first party hereby undertakes to sell and 40 to transfer to the second party part of the plot (described), consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. It further provides that the sale includes also part of the building erected on the above-mentioned plot, namely, a flat in the third floor consisting of two rooms, a kitchen, bathroom and w.c. and, together with the other flat-owners, the staircase, etc.

Art. 2 fixes the price of the flat at LP.450—and states the manner of payment.

Art. 4 provides that the first party undertakes to transfer at the Land Registry the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership, which shall be formed by all the flat-owners, at any time that he will be required to do so by any of the flat-owners.

10 *Art. 8* provides that the second party shall be entitled to hand over or to sell the aforesaid flat to another without the consent of the first party.

Art. 9 provides for damages for breach of the agreement.

Now, it is, I think, abundantly clear that in each case the Appellant (purchaser) has agreed to purchase a flat. That was the principal object of the agreement in each instance, and the price was fixed on the understanding that the purchaser was to have a flat which would be his property, and which he could dispose of as he pleased. In no case would the purchaser have been willing to pay the price fixed if he were only to have a musha'a share in the house and land with no certainty of getting a flat to live in.

20 If the purchaser had tried to obtain registration of a flat he would have been told by the Registrar of Lands that such registration was not allowed by law. Section 11 of the Land Transfer Ordinance (Chapter 81) provides that every disposition to which the consent required by section 4 has not been obtained shall be null and void, and section 12 of the same Ordinance provides that :

30 “If any person is a party to any disposition of immovable property which has not received the consent required by section 4 and either enters into possession, or permits the other party to enter into possession, of the immovable property, whether by himself or any person on his behalf, he is guilty of an offence and is liable to a fine of one fourth of the immovable property.”

The purchaser told the trial Court, and Mr. Eliash has made it equally clear to this Court, that the purchasers are quite willing to take musha'a shares in the land and building without any stipulation as to specific flats. But it is not the case here that the vendor agreed to sell and the purchasers to take, collectively, undivided shares in the whole of the land. There are nine separate agreements, made on different dates and not in identical terms, and it is not possible now to convert them into one collective agreement.

40 In Chitty on Contracts (18th Edition) the following passage appears at p. 740 :

“Where a contract which can be performed legally is sought to be avoided on the ground that the parties intended to perform it in an illegal manner, it is necessary to show that they knew what the law was and intended to break it. But once the conclusion is reached that the real intention of the parties was illegal the contract will not be enforced. Notwithstanding that there may be in certain events alternative methods of performance which would be legal.”

50 There is no suggestion that the parties did not know that they could not obtain registration of specific flats. If they had thought that they could

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
26th
September
1945,
continued.

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 39.
Judgment
in
C.A.'s Nos.
16-24/45,
26th
September
1945,
continued.

they would have drafted the contracts differently. The principal object in each instance was to obtain possession of a flat and such a flat could not legally be transferred without the land beneath it. There was, at best, an intention to effect a registration which would not disclose the real transaction, namely, the transfer of a flat.

With regard to the agreements which visualised a possible transfer to persons who would, in effect, be trustees, the learned trial Judge found that no committee was ever formed with the consent of all the flat-owners, and that is a finding of fact which I find no ground for upsetting. Furthermore, it is agreed that such persons could not, as the law stands at present in Palestine, have been registered as trustees, and I am not impressed by Mr. Eliash's argument that although they could not be registered as trustees they could, in every other respect, be treated as such. It was held in High Court 77/31 (1 Palestine Law Reports, page 735) that the doctrine of private trusts has not been introduced into the law of Palestine. In my judgment if such persons had asked for registration they could only have done so as nominees, in which case section 5 of the Land (Transfer) Ordinance (Chapter 81) would have required registration to be made in the name of the principals. But here again I would observe that it is not a case of one agreement to which all of the purchasers are parties but of nine separate agreements. The Appellants cannot, by combining together now, convert nine separate agreements, which were intended to put them into possession of specific flats, into one collective agreement for the transfer of undivided shares in land or into nine identical agreements to each of which each of the Appellants has given his or her consent.

Certain of the agreements speak of a co-operative society, but no such society was ever formed.

The only other point to which I need refer is the submission that the Appellants are entitled to the protection of the Rent Restriction (Dwelling Houses) Ordinance No. 44 of 1940. On this point I find myself in agreement with the learned trial Judge who said:—

“ They themselves maintain that they are owners, the manifest intention of the agreements was to sell to them and they have never proved or alleged any taking on hire of the flats. The fact that they were adjudged to pay equivalent rent because they were occupying the lands without the consent of the Plaintiff obviously cannot give them the right to maintain that they are tenants.”

The Rent Restriction (Dwelling Houses) Ordinance only applies (see section 3)—“ to a house, or any part of a house *let.*”

I also agree with the trial Judge that an equitable lien for the return of purchase money can only arise when there was an enforceable contract.

In the result, therefore, I find that these nine contracts are all illegal and void. The appeals fail and must be dismissed with one set of costs on the lower scale, to include LP.50.— (fifty) advocate's fees for attendance at the hearing, to be paid by the Appellants in equal shares.

Delivered this 26th day of September, 1945.

In the presence of Mr. M. Eliash for Appellants and in the presence of Mr. E. D. Goitein for Respondent.

(Sgd.) B. V. SHAW,
British Puisne Judge. 50

No. 40.

APPLICATIONS for Leave to Appeal.
(One in each Appeal identically worded.)

[Not printed.]

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 40.
Applications
for Leave to
Appeal
(one in each
appeal
identically
worded).
(Not
printed.)

No. 41.

ORDER granting Conditional Leave to Appeal.

[Not printed.]

No. 41.
Order
granting
Conditional
Leave to
Appeal.
(Not
printed.)
4th
December
1945.

No. 42.

APPLICATION for Final Leave to Appeal to His Majesty's Privy Council.

No. 42.
Application
for Final
Leave to
Appeal to
His
Majesty's
Privy
Council,
1st March
1946.

10

- 1. BRACHA BEN-YA'ACOV
- 2. (A) NISSIM MIRAKOV COHEN
(B) MALKIEL MIRAKOV COHEN
- 3. (A) DOV GUTERMAN
(B) DVORA GUTERMAN
- 4. (A) BLUMA VORTMAN
(B) YA'ACOV VORTMAN

in their personal capacity as heirs and as legal
representatives of the estate of the late
SIMHA VORTMAN

20

- 5. BENJAMIN MANN
- 6. ESTHER MAMANOFF
- 7. REUVEN LEV
- 8. MEIR WIND
- 9. GERSHON MABOVITZ - - - Applicants

V.

JOSEPH FORER - - - Respondent.

Privy Council Leave Applications Nos. 44, 45, 46, 47, 48, 49, 50, 51 and
52/1945 consolidated by the Order of the Supreme Court dated 4.12.45.

NOTICE OF MOTION.

30

TAKE NOTICE that the Court will be moved on Friday the 8th day
of March 1946, at 9 o'clock in the forenoon or so soon thereafter as counsel
can be heard, by the above-named Applicants that final leave to appeal

*In the
Supreme
Court
sitting as a
Court of
Appeal,
Jerusalem.*

No. 42.
Application
for Final
Leave to
Appeal to
His
Majesty's
Privy
Council,
1st March
1946,
continued.

to His Majesty in Council from the Judgment of the Supreme Court sitting as a Court of Appeal delivered on 26th September, 1945, in Civil Appeals Nos. 16-24/1945 be granted to the Applicants on the grounds following :—

1. Conditional Leave to Appeal was granted on the 4th December, 1945, and by the same order the Appeals were directed to be consolidated under Article 181.

2. The Privy Council having allowed a reduction of the guarantee to LP.300, a guarantee in that amount by the Anglo Palestine Bank Ltd. is herewith submitted.

3. The list of documents to form the Record for despatch to the 10 Privy Council was made and submitted on 31.1.46.

And that the Record of Proceedings be settled in due course,

And that the costs of this application be costs in the cause.

Dated this 1st of March, 1946.

(Sgd.) M. ELIASH,
Attorney for Applicants.

To : Joseph Forer, through his attorney
E. D. Goitein, Advocate, Jerusalem.

No. 43.
Order,
P.C.L.A.'s
Nos.
44-52/45,
17th April
1946.

No. 43.
ORDER.

20

Privy Council Leave Applications Nos. 44-52/45.

Before : THE CHIEF JUSTICE (Sir William FitzGerald) and
Mr. Justice DE COMARMOND.

Application for final leave to appeal to His Majesty in Council from the judgment of the Supreme Court sitting as a Court of Civil Appeal dated the 26th September, 1945, in Civil Appeals Nos. 16-24 of 1945 (consolidated in Civil Appeal No. 16/45).

We interpret the Order of the Privy Council dated the 20th March, 1946, as amounting to a grant of final leave to appeal. The application this morning is therefore superfluous. The board are now seized of this matter and we are of opinion that any application the purport of which is to modify that order by attaching conditions to the grant of leave, must be made to the Privy Council. 30

Given this 17th of April, 1946.

(Sgd.) W. J. FITZGERALD,
Chief Justice.

(Sgd.) J. H. M. DE COMARMOND,
British Puisne Judge.

No. 44.

ORDER granting Special Leave to Appeal.

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of March, 1946.

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD CHANCELLOR	Sir CYRIL ASQUITH
LORD PRESIDENT	Mr. WHITELEY
LORD AMMON	Sir LIONEL COHEN

*In the
Privy
Council.*

No. 44.
Order
granting
Special
Leave to
Appeal,
20th March
1946.

10 WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 25th day of February 1946 in the words following viz. :—

“ WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of the Appellants in the matter of nine Appeals from the Supreme Court of Palestine sitting as a Court of Appeal between Bracha Ben-Ya 'Acov Appellant and Joseph Forer Respondent (P.C.L.A. No. 44/45) and between (1) Nissim Mirakov Cohen (2) Malkiel Mirakov Cohen Appellants and the same Respondent (P.C.L.A. No. 45/45) and between (1) Dov Guterman (2) Dvora Guterman Appellants and the same Respondent (P.C.L.A. No. 46/45) and between (1) Bluma Vortman (2) Ya 'Acov Vortman Appellants and the same Respondent (P.C.L.A. No. 47/45) and between Benjamin Mann Appellant and the same Respondent (P.C.L.A. No. 48/45) and between Esther Mamanov Appellant and the same Respondent (P.C.L.A. No. 49/45) and between Reuven Lev Appellant and the same Respondent (P.C.L.A. No. 50/45) and between Meir Wind Appellant and the same Respondent (P.C.L.A. No. 51/45) and between Gershon Mabovitz Appellant and the same Respondent (P.C.L.A. No. 52/45) setting forth (amongst other matters) that this is a Petition for special leave to appeal from a Judgment of the Supreme Court of Palestine sitting as a Court of Appeal dated the 26th September 1945 affirming a Judgment of the Land Court Tel-Aviv in favour of the Respondent dated the 21st December 1944 : that the Judgment of the Land Court was given in nine actions that had been brought against the Petitioners by the Respondent which actions had been consolidated by Order of the Court dated the 11th December 1944 : that the Appeals to the Supreme Court lodged by the Petitioners were also consolidated and one Judgment was delivered by the Supreme Court in the consolidated Appeal : that all the cases of the Petitioners raise the same question whether the Respondent was entitled to treat as void the agreement under which for a stated consideration each of the Petitioners was let into possession of a flat in a building which the Respondent had erected in the Tel-Aviv area and whether the Respondent was entitled to a declaration that

*In the
Privy
Council.*

No. 44.
Order
granting
Special
Leave to
Appeal,
20th March
1946,
continued.

he was still the owner of each of the said flats and entitled to evict the Petitioners therefrom : that as the value of the property in dispute in the case of each of the Petitioners was more than £500 sterling they were entitled as of right to be granted leave to appeal to Your Majesty in Council and the Supreme Court so held : that in giving the Petitioners conditional leave to appeal the Supreme Court ordered that the Appeals be consolidated : that the Supreme Court in granting leave made it a condition that each of the Petitioners should provide security in the sum of LP.200 : that the Petitioners submit that the Supreme Court was not entitled to make 10
it a condition of granting leave to appeal that the Petitioners should provide security in the amount of LP.1800 in all : that the Petitioners are not able to furnish security for so large a sum : And humbly praying Your Majesty in Council to grant the Petitioners special leave to appeal from the Judgment of the Supreme Court dated the 26th September 1945 and for further or other relief :

“ THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to 20
report to Your Majesty as their opinion that leave ought to be granted to the Petitioners to enter and prosecute their Appeal against the Judgment of the Supreme Court of Palestine sitting as a Court of Appeal dated the 26th day of September 1945 upon depositing in the Registry of the Privy Council the sum of £300 as security for costs :

“ AND Their Lordships do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under the seal of the Record proper to be 30
laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioners of the usual fees for the same.”

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the High Commissioner or Officer administering the Government of Palestine for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER. 40

No. 45.

ORDER granting Stay of Execution.

*In the
Privy
Council.*

AT THE COURT AT BUCKINGHAM PALACE

The 2nd day of August, 1946

Present

THE KING'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

Mr. SECRETARY EDE

LORD MACMILLAN

Mr. BARNES

No. 45.
Order
granting
Stay of
Execution,
2nd August
1946.

10 WHEREAS there was this day read at the Board a Report from the
Judicial Committee of the Privy Council dated the 30th day of July 1946
in the words following, viz. :—

20 “ WHEREAS by virtue of His late Majesty King Edward the
Seventh's Order in Council of the 18th day of October 1909 there
was referred unto this Committee a humble Petition of the
Appellants in the matter of nine Appeals from the Supreme Court of
Palestine sitting as a Court of Appeal between Bracha Ben-ya' Acov
Appellant and Joseph Forer Respondent and between (1) Nissim
Mirakov Cohen (2) Malkiel Marakoc Cohen Appellants and the
same Respondent and between (1) Dov Guterman (2) Dvora
Guterman Appellants and the same Respondent and between
(1) Bluma Vortman (2) Ya' Acov Vortman Appellants and the
same Respondent and between Benjamin Mann Appellant and the
same Respondent and between Esther Mamanov Appellant and
the same Respondent and between Reuven Lev Appellant and the
same Respondent and between Meir Wind Appellant and the same
Respondent and between Gershon Mabovitz Appellant and the
same Respondent setting forth (amongst other matters): that this
is a Petition for a stay of execution of a Judgment of the Supreme
Court dated the 26th September 1945 pending an Appeal therefrom
30 to Your Majesty in Council for which special leave was given by
Your Majesty in Council on the 20th March 1946 : that the Supreme
Court had already given conditional leave to appeal to Your Majesty
in Council but had fixed the security to be given by them at an
amount namely LP1,800 that was not justified in the circumstances :
that the actions resulting in the Judgment of the 26th September
1945 were brought against the Petitioners by the Respondent
claiming declarations that he was the owner of each of the flats
in which the Petitioners lived and that he was entitled to evict
them therefrom : that when the Supreme Court gave the Petitioners
conditional leave to appeal to Your Majesty in Council the Supreme
Court was asked to grant a stay of their Judgment but ordered
40 that before execution of the Judgments the Respondent should
give a security in the sum of L.P.500 to each of the Applicants
against whom execution was taken in respect of any loss or damage
caused by the execution : that following the Order of Your Majesty
in Council of the 20th March 1946 the Petitioners made another

*In the
Privy
Council.*

No. 45.
Order
granting
Stay of
Execution,
2nd August
1946,
continued.

application to the Supreme Court for a stay of the Judgment which application was dismissed on the 28th May 1946 the Court holding that the issue was the same as that before the Court on the 4th December 1945 : that the Petitioners submit that the Order made by the Supreme Court on the 4th December 1945 when conditional leave to appeal was given may be held to be not operative now that the Petitioners are proceeding on the special leave granted by Your Majesty in Council and that such Order would not afford them any real compensation for the loss of their homes : that the Respondent is threatening to enforce the Judgment of the Supreme Court and to evict the Petitioners from the flats : And humbly praying Your Majesty in Council to grant the Petitioners a stay of execution of the Judgment of the Supreme Court dated the 26th September 1945 and for such further and other relief as to Your Majesty in Council may seem fit :

“ THE LORDS OF THE COMMITTEE in obedience to His late Majesty’s said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that (the Petitioners having undertaken to prosecute the Appeal with all due expedition and having also undertaken by their Solicitors to deposit the security already ordered so soon as the Record is received in the Registry of the Privy Council) a stay of execution of the Judgment of the Supreme Court in Palestine sitting as a Court of Appeal dated the 26th day of September 1945 ought to be granted to the Petitioners so far as it relates to possession until further Order :

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the High Commissioner or Officer administering the Government of Palestine for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

EXHIBITS AND DOCUMENTS.

Exhibits.

No. 7.—AGREEMENT OF SALE between Joseph Forer and Reuven Lev.

(Translation from Hebrew.)

No. 7.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Reuven
 Lev
 (Transla-
 tion from
 Hebrew),
 6th October
 1937.

Between Mr. Joseph Forer hereinafter called the first party and Reuven Lev and Mr. Yehuda Bomrader hereinafter called the second party.

WHEREAS the first party is building a house of common ownership in Hashoftim Street 24, and has agreed to sell to the second party a flat, in this house of common ownership, in the second floor consisting of two
 10 rooms, kitchen, bathroom and w.c., one room of which flat is in the front and one room and the convenience face the west, and whereas second party agrees to purchase this flat, therefore the two parties have come to the following agreement :—

1. The second party agrees to pay for the above flat the sum of LP.550.— (five hundred and fifty Palestine Pounds) in the following manner :—

LP.200.— (two hundred Palestine Pounds) by stairs, marble and
 20 mosaic which the first party is ordering for the houses which he is building now and which he will order for the houses which he will build in the future, and the sum of

LP.350.— (three hundred and fifty Palestine Pounds) remain to be paid in monthly instalments during twenty years from the day of completion of the building the sum of LP.3.— per month.

As an additional security the second party gives bills for the whole period except the mortgages which will be made on the whole building. In these instalments is also included the interest for the amount of LP.350.—

2. It was agreed between both parties that 60 per cent. of what is
 30 due to the second party for the stairs, marble and mosaic will be deducted by the first party in favour of the sum of LP.200.— on account of the flat and 40 per cent. the second party will receive by bills until 5 months.

3. Both parties have agreed to the following prices : Every step 450 (Four Hundred and Fifty) Mils, each square metre of marble 850 (Eight Hundred and Fifty) Mils, each hold 50 mils, transport expenses to the building on account of second party marble for walls 850 mils a square metre.

4. Second party undertakes to make the stairs immediately without
 40 any delay, beautiful stairs, good to the complete satisfaction of the first party and undertakes to come to complete them, to clean, to polish, to repair everything that will need repairing on the first request of first party on account of the second party.

5. First party undertakes to complete the building until Passover 1938.

Exhibits.
 No. 7.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Reuven
 Lev
 (Transla-
 tion from
 Hebrew),
 6th October
 1937.
continued.

6. The first party is entitled to transfer the second party to a second building and to give him such a flat in the second building and the second party has no right to object to it.

7. The first party is also entitled to sell the flat to another without asking for the consent of the second party and to pay to the second party the amount which he invested in the flat.

8. The second party undertakes to pay the monthly instalments accurately and in case there will be a delay in two instalments he will be considered as having broken this deed and first party will be entitled to sell the flat to another without any previous warning or notarial notice. 10

9. First party undertakes to build the building in accordance with the plan certified by the Municipality of Tel-Aviv and as per the technical outline herewith attached to be considered as inseparate part of this contract.

10. Second party undertakes to pay his share in the Municipality taxes which will be due by him on his entering the flat, he also undertakes to pay his share in the Werko or other taxes which the Government will ask on the building.

11. Second party undertakes to participate in the expenses for insuring the house against fire and earthquake and also for the fuel for the 20 central heating and hot water.

12. The second party hereby undertakes to give his share either in the canalisation if there will be any canalisation nearby the house in common ownership or for the road if any will be constructed in Hashoftim Street and also his share for the transfer of the building in the names of the buyers in the Land Registry.

13. The second party shall be entitled to hand over or to sell the flat to another.

14. The second party undertakes to carry out all the provisions of this contract and in the event of his breaking this contract or any of the 30 provisions of this contract, he is liable to pay damages in the sum of LP.200 and the first party shall be entitled to sell this same flat after a notary public notice will be received by the second party from the first party.

15. The first party undertakes to pay damages in the amount of LP.200 if he shall break this contract or a provision of this contract after having received a notary public notice from the second party.

16. In the event that the first party shall sell the above building and until 4 months from the day of the completion of the building he will not start erecting a second building, the first party undertakes to return 40 to the second party all the amount which he invested in the flat.

In Witness whereof the parties have signed.

Tel-Aviv, 6th October, 1937.

(Signatures.)

No. 4.—AGREEMENT OF SALE between Joseph Forer and Simha Vortman.

(Translation from Hebrew.)

Exhibits.

No. 4.
Agreement
of Sale
between
Joseph
Forer and
Simha
Vortman
(Translation
from
Hebrew),
9th
November
1937.

Between Mr. Joseph Forer, hereinafter called for short the first party and between Mr. Simha Vortman, hereinafter called the second party.

WHEREAS the first party builds a house in common ownership in Hashoftim Street No. 24, and agrees to sell to the second party a flat in the said house in the first floor above the pillars, consisting of three rooms, kitchen, bathroom and w.c., that is to say, three shares out of 26 shares in which the house is divided together with plot of land and three shares out of 26 to build a fourth floor—in accordance with the plan certified by the Municipality of Tel-Aviv, two rooms of the flat face the front, and whereas the second party agrees to purchase this flat, therefore, the parties have come to the following agreements:—

1. The second party undertakes to pay for the said flat LP.600 (Six hundred Palestine Pounds). The manner of payment is: On signing this contract LP.275 (Two hundred and seventy-five Palestine Pounds) in cash, and the balance in the sum of LP.325 (Three hundred and twenty-five Palestine Pounds) in a mortgage for 20 years from the day of the completion of the building, and he undertakes to pay LP.2.780 mils (Two Palestine Pounds 780 mils) per month. As additional security, the second party gives bills for the whole period. These instalments include the interest and the capital together.

2. The first party undertakes to make all the repairs which will be needed during one year if it transpires that the damages have been caused through the fault of the first party.

3. The first party undertakes to build the building in accordance with the technical description enclosed herewith and which is considered as an inseparable part of this agreement.

4. The second party undertakes to pay the bills regularly and in case he will delay in two instalments, he will be considered as having committed a breach of this contract and the first party will be entitled to sell the flat to another on account of the second party, without any previous or notarial notice.

5. The first party will transfer in the Land Registry all the building in the name of the committee which the partners will elect, on condition that they will sign the mortgage for all the sum which will become due from all the building in accordance with the account of the bills which the parties have given.

6. The second party undertakes to pay all the taxes which the Municipality of Tel-Aviv will ask for all the building after its completion—his own share. Similarly, he undertakes to pay his share in the urban property tax or any other tax which the Government will ask for all the building.

7. The second party undertakes to pay his own share for the cleaning of the staircase room and for the electricity of the staircase room.

Exhibits.
 No. 4.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Simha
 Vortman
 (Transla-
 tion from
 Hebrew),
 9th
 November
 1937,
continued.

8. The second party undertakes to participate in the expenses of the general repairs which will be needed for the benefit of all the parties in the building, except the repairs which every tenant will make in his own flat at his own cost.

9. The second party undertakes to pay his share in the canalisation if it will be made near the house owned in common or for the construction of the road if it will be made in the road, in this party, and which the Municipality of Tel-Aviv will ask.

10. The second party is entitled to hand over or sell the flat to another. 10

11. The second party undertakes to obey to the decisions given by the majority of the partners to this house which is owned in common.

12. The second party undertakes to fulfil all the conditions of this contract and in the event of his committing a breach of the contract or one of the conditions of this contract, he undertakes to pay damages in the sum of LP.200 and the first party will be entitled to sell his flat after the second party will receive a notary public notice from the first party.

13. The first party undertakes to pay damages in the sum of LP.200 if he will commit a breach of this contract or one of its conditions after he will receive a notary public notice from the second party. 20

In Witness whereof the parties have signed this contract in Tel-Aviv, this 9th day of November, 1937.

(Signatures.)

No. 5.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Benjamin
 Mann
 (Transla-
 tion from
 Hebrew),
 1st
 February
 1938.

No. 5.—AGREEMENT OF SALE between Joseph Forer and Benjamin Mann.

(Translation from Hebrew.)

Between Mr. Joseph Forer, hereinafter called for short the first party and between Mr. Benjamin Mann, hereafter called for short the second party.

WHEREAS the first party has built a house of common ownership in 24, Hashtoftim Street, and agrees to sell to the second party a flat in the said house in the first floor above the pillars consisting of two rooms, kitchen, bathroom and w.c. a flat of which one room faces the front and the second westwards, and 30

WHEREAS the second party agrees to purchase this flat,

THEREFORE both parties have come to the following agreement :—

1. The second party agrees to pay for the said flat the sum of Five Hundred (500) Palestine Pounds. The manner of payment is: Fifty Palestine Pounds in cash on signing this contract, and this contract is considered as a receipt of the said sum, Fifty Palestine Pounds by timber, and the balance in the sum of Four Hundred (400) Palestine Pounds by 40 monthly instalments, during 20 years from the day of the completion of the building, of LP.3.420 mils per month. As additional security, the second party undertakes to give bills for the whole period. These instalments include interest for the sum of Four Hundred (400) Palestine Pounds.

2. The first party undertakes to complete the building till the 1st day of April, 1938, and undertakes to repair all the damage in this flat during one year as from the day of the completion of the building, if it transpires that the damages were caused through the fault of the first party.

3. The second party undertakes to pay the monthly instalments regularly and in case he will delay in two payments, he will be considered as having committed a breach of the contract and the first party will be entitled to sell the flat to another on the account of the second party
10 without any previous or notarial notice.

4. The first party undertakes to erect the building according to the plan certified by the Municipality of Tel-Aviv and the technical outline enclosed herewith which is considered as an inseparable part of this contract.

5. The second party undertakes to pay the municipal taxes which will fall in his share on his entering the flat. Similarly, he undertakes to pay his share in the urban property tax or other taxes which the Government will ask for the building.

6. The second party undertakes to participate in the expense for
20 the insurance of the house against fire, and earthquake and also in the expenses of the fuel for the central heating and hot water.

7. The second party undertakes to give his share for the canalisation if it will be made near the house owned in common or the road if it will be arranged in the Hashoftim Street. Similarly, his share in the transfer of the building in the Land Registry in the name of the partners, in the expenses for the transfer of the mortgage.

8. The second party is entitled to hand over or to sell the flat to another.

9. The second party undertakes to fulfil the provisions of the
30 contract and in case that he will commit a breach of the contract or one of the provisions of this contract, he undertakes to pay damages in the sum of Two Hundred (200) Palestine Pounds and the first party is entitled to sell his flat after the second party will receive a notary public notice from the first party, and the first party shall return to the second party all the money received in cash and the bills after reducing the 200 Palestine Pounds for damages.

10. The first party undertakes to pay damages in the sum of Two Hundred Palestine Pounds (200) if he will commit a breach of the contract or one of the provisions of this contract, after he will receive a notary
40 public notice from the second party and also undertakes to return to the second party the LP.100 in cash and all the bills.

In Witness whereof we have signed, Tel-Aviv, this 1st day of February, 1938.

The first party will transfer in the Land Registry all the building in the name of a committee which will be elected by all the members at any time required, provided that they will sign the mortgages for the whole sum that will then become due from all the members.

(Signatures.)

Exhibits.
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No. 5.
Agreement
of Sale
between
Joseph
Forer and
Benjamin
Mann
(Transla-
tion from
Hebrew),
1st
February
1938,
continued.

*Exhibits.***No. 6.—AGREEMENT OF SALE between Joseph Forer and Esther Mamanov.**

(Translation from Hebrew.)

No. 6.
Agreement
of Sale
between
Joseph
Forer and
Esther
Mamanov
(Transla-
tion from
Hebrew),
26th May
1938.

Made in Tel-Aviv on the 26th day of May, 1938, between Mr. Joseph Forer hereinafter called the first party on the one part and Mrs. Esther (Machmel) Mamanov, hereinafter called the second party on the other part.

WHEREAS the first party has built a house of common ownership in Hashoftim Street, 24, Tel-Aviv, and has offered to the second party a flat in the aforesaid house, and whereas the second party has agreed to purchase from the first party a flat in the aforesaid house in accordance with the following conditions, therefore this contract was made. 10

Article 1 : First party hereby undertakes to sell and to transfer to the second party who agreed to purchase from the first party part of the plot registered in the Land Registry Office, Tel-Aviv, in Volume No. 53, Folio 148 (situated in Hashoftim Street No. 24, Tel-Aviv), consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners.

The sale includes also part of the building erected on the above-mentioned plot, namely, it includes a flat in the second floor consisting of three rooms, kitchen, bathroom and w.c. facing the yard and also together with the other flat-owners, the staircase, washing room, the garden and the roof which the first party has to place at any time at the disposal of the purchaser as common owner. 20

Article 2 : The price of the aforesaid flat was fixed by both parties to be LP.550 (five hundred and fifty Palestine Pounds) and shall be paid by the second party to the first party in the manner and in the instalments as hereinafter stated :—

(A) LP.150 (one hundred and fifty Palestine Pounds) on the date of signing this contract.

(B) LP.400 (four hundred Palestine Pounds) in equal monthly instalments during 20 years from the day of her entering into the flat. The aforesaid sum shall bear interest of 7 per cent. per annum. 30

To secure the payment of the aforesaid outstanding debt, the first party may mortgage the said flat for the aforesaid amount without the joint and several liability and in accordance with the terms of the mortgage and second party shall have to deliver bills to the mortgagee to cover the remainder of the aforesaid monthly instalments. The conditions of the mortgage deed shall be the same as the conditions of the mortgage deed of the Palestine Mortgage Bank Ltd.

The second party hereby delivers to the first party four bills of LP.3.420 each payable on 15.6.38, 15.7.38, 15.8.38 and 15.9.38 respectively and also eight bills of LP.3.— each to fall due every month as from the 15.10.38, altogether being twelve bills in a total sum of LP.37.680 and this shall be on account of the capital and the interest as aforesaid. 40

On the day of the transfer in the Land Registry the parties have to settle the account of the aforesaid instalments in accordance with the

terms of the payments of the Mortgage Bank and to consider the aforesaid bills on account of the payment of the mortgage.

The costs to be involved in connection with the mortgage deed and the aforesaid transfer (his share) shall be borne by the second party.

Article 3 : First party deposits with Mr. Moshe Rojani and with the consent of the second party a bill for the sum of LP.150.- (one hundred and fifty Palestine Pounds) to the order of the second party in consideration of the aforesaid advanced payment and it has been agreed that the aforesaid bill shall be returned to the first party without payment only on the day
10 of the transfer in the Tabu of the building in the name of all the purchasers.

Article 4 : First party undertakes to hand over to the second party the flat at the time that the second party will require it and this shall not be later than two weeks from the day of signing this Deed.

Article 5 : First party undertakes to transfer at the Land Registry the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership which shall be formed by all the flat-owners at any time that he will be required to do so by any of the flat-owners free from any charge (except the charge of the flat-owners in accordance with the contracts) and the
20 first party undertakes as well to sign on all the necessary documents and to appear in the Land Registry Office.

In the event that such a committee or co-operative society shall not be formed within one year from the day of signing this Deed, the first party shall transfer to the second party his share in the plot and in the building as aforesaid Musha'a.

Article 6 : Second party undertakes to pay his share in the Government and municipal taxes as from the day of his entering into the flat and also in the costs of the fuel for the central heating and hot water. The Government and municipal taxes up to the date of the entry in the flat by the
30 second party shall be borne by the first party.

Article 7 : First party undertakes to insure the house against fire and earthquake for the benefit of the tenant in proportion and the second party undertakes to participate proportionally in these costs. The first party shall hand over to the second party the insurance policy.

Article 8 : The second party undertakes to pay his proportional share in the canalisation expenses and road in the event that the first party or any other person shall pay the amount to be due by the second party.

Article 9 : The second party shall be entitled to hand over or sell the
40 aforesaid flat to another without the consent of the first party.

Article 10 : The first party undertakes to complete finally the aforesaid building as the doors to the building, painting and whitewashing the corridors, and the roof fence, etc., as early as possible.

Article 11 : First party shall be responsible for the good standing of the building during one year from the day of signing this contract and he shall make the necessary repairs within the said period at his costs.

Exhibits.

No. 6.
Agreement
of Sale
between
Joseph
Forer and
Esther
Mamanov
(Translation
from
Hebrew),
26th May
1938,
continued.

Exhibits.

No. 6.
Agreement
of Sale
between
Joseph
Forer and
Esther
Mamanov
(Transla-
tion from
Hebrew),
26th May
1938,
continued.

Article 12 : Any party committing a breach of this agreement shall pay to the other party the sum of LP.200.— as prefixed liquidated damages, in the event that the first party shall commit the breach he shall have in addition to the aforesaid amount, to return and to pay to the second party the money that he received in cash and in bills together with 9 per cent. interest on the aforesaid amount.

This contract has been made in duplicate and signed by both parties in the presence of Moshe Rojani with the free will of both parties and after the second party has seen the flat and was pleased.

Made this 26th day of May, 1938.

10

Supplement to Article 2. The costs of the aforesaid mortgage shall include :—

(A) The interest (5 per cent.) which the Mortgage Bank deducts from the amount of the mortgage.

(B) Advocate's fees and the fees of the architect of the aforesaid Bank.

(C) The lawful tax (1 per cent.) which shall be paid in the Land Registry at the registration of the Mortgage Deed.

WHEREAS the second party entered into the flat on the 15.5.38 the agreement shall therefore come into force as far as payments are 20 concerned from that date, namely 15.5.1938.

(Stamp and thumbprints and signature of the parties.)

I hereby guarantee for the signature of Mrs. Mamanov.

(Sgd.) M. ROJANI.

Certify thumbprint of Mrs. Mamanov.

No. 3.
Agreement
of Sale
between
Joseph
Forer and
Dov and
Dvora
Guterman
(Transla-
tion from
Hebrew),
6th July
1938.

No. 3.—AGREEMENT OF SALE between Joseph Forer and Dov and Dvora Guterman.

(Translation from Hebrew.)

Made in Tel-Aviv on the 7th day of July, 1938, between Mr. Joseph Forer hereinafter called the first party on the one part and Mr. Dov Guterman and Mrs. Dvora Guterman hereinafter called the second party 30 on the other part.

WHEREAS the first party has built a house of common ownership in Hashoftim Street, 24, Tel-Aviv and has offered to sell to the second party a flat in the aforesaid house, and whereas the second party has agreed to purchase from the first party a flat in the aforesaid house in accordance with the following conditions, therefore this contract was made.

1. First party hereby undertakes to sell and to transfer to the second party who hereby agrees and undertakes to purchase from the first party part of the plot registered in the Land Registry Office, Tel-Aviv in Volume No. 53 Folio 148 (situated in Hashoftim Street No. 24 Tel-Aviv) 40 consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. The contract of sale includes also part of the building erected on the above-mentioned plot, namely, a flat in the second floor consisting of three rooms, kitchen, bathroom and w.c. facing towards the front, and also together with the other flat-owners the staircase, washing room, the garden and the roof, which the first party has to place at any time at the disposal of the purchaser as common owner :—

2. The price of the aforesaid flat was fixed by both parties to be LP.500 (five hundred Palestine Pounds) and shall be paid by the second party to the first party in the following manner :—

LP.50—in cash (fifty Palestine Pounds) on the date of signing this contract.

LP.250—(two hundred and fifty Palestine Pounds) in cash at the time of effecting the third mortgage in favour of the second party and the balance of

10 LP.125—in cash and by bill payable within one year from the date of this contract and not later than the 10th day of July, 1939 total two hundred Palestine Pounds on the date of transfer of the building in the Land Registry to the name of the committee of the co-operative society.

3. First party undertakes to hand over to the second party the above flat not later than one week from the day of signing this contract.

4. First party undertakes to transfer at the Land Registry the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership which shall be formed by all the flat-owners free from any charge (except the charge
20 of the flat-owners in accordance with the contracts) and the first party undertakes as well to sign on all the necessary documents and to appear in the Land Registry Office.

5. First party undertakes to insure the house against fire and earthquake for the benefit of the second party in proportion.

6. First party shall be responsible for the good standing of the building during one year from the day of signing this contract and he shall make the necessary repairs within the said period at his costs.

7. Second party undertakes to pay his share in the Government and municipal taxes as from the day of his entering into the flat and also
30 in the costs of the fuel for the central heating and hot water. The Government and municipal taxes up to the date of the entry in the flat by the second party shall be borne by the first party.

8. The second party undertakes to pay his proportional share in the canalisation expenses and road in the event that the first party or any other person shall pay the amount to be due by the second party.

9. The second party shall be entitled to hand over or to sell the aforesaid flat to another without the consent of the first party.

10. First party undertakes to effect in favour of second party a
40 third mortgage as security for the sum of six hundred Palestine Pounds and the expenses of this mortgage shall be borne by both parties.

11. Any party committing a breach of this agreement shall pay to the other party the sum of LP.150 as prefixed liquidated damages.

This contract has been made in duplicate and signed by both parties with the free will of both parties and after the second party has seen the flat and was pleased.

Made this 6th day of July, 1938.

Signature of first party and
of Dov Guterman only.

Exhibits.

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No. 3.
Agreement
of Sale
between
Joseph
Forer and
Dov and
Dvora
Guterman
(Transla-
tion from
Hebrew),
6th July
1938,
continued.

*Exhibits.***No. 2.—AGREEMENT OF SALE between Joseph Forer and Nissim and Malkiel Mirakov Cohen.**

No. 2.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Nissim and
 Malkiel
 Mirakov
 Cohen
 (Transla-
 tion from
 Hebrew),
 8th August
 1938.

(Translation from Hebrew.)

Made in Tel-Aviv on the 8th day of August, 1938, between Mr. Joseph Forer hereinafter called the first party of the one part and Messrs. Malkiel and Nissim Mirakov-Cohen, hereinafter called the second party on the other part.

WHEREAS the first party has built a house of common ownership in Hashoftim Street 24, Tel-Aviv, and has offered to sell to the second party a flat in the aforesaid house, and whereas the second party have agreed to purchase from the first party a flat in the aforesaid house in accordance with the following conditions, therefore this contract was made. 10

Article 1 : First party hereby undertakes to sell and to transfer to the second party who agreed to purchase from the first party part of the plot registered in the Land Registry Office, Tel-Aviv, in Volume No. 53, Folio 148 (situated in Hashoftim Street No. 24, Tel-Aviv), consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners.

The sale includes also part of the building erected on the above-mentioned plot, namely, it includes a flat in the third floor consisting of three rooms, kitchen, bathroom and w.c. in the front of the house facing the Hashoftim Street; and also together with the other flat-owners, the staircase, washing room, the garden and the roof, which the first party has to place at any time at the disposal of the purchaser as common owner. 20

Article 2 : The price of the aforesaid flat was fixed by both parties together with all the expenses of the transfer and the mortgage at a total price of LP.600.— (six hundred Palestine Pounds) and shall be paid by the second party to the first party in the manner and in the instalments as hereinafter stated :— 30

- (A) LP.100 (one hundred Palestine Pounds) on the date of signing this contract.
- (B) LP. 50 (fifty Palestine Pounds) on the day of transfer of the flat in the Land Registry Office.
- (c) LP. 50 (fifty Palestine Pounds) within three years from the day of their entering the flat in equal monthly instalments of LP.1.620.
- (D) LP.400 (four hundred Palestine Pounds) in equal monthly instalments during 20 years from the day of their entering into the flat. The aforesaid sum shall bear interest of 7% per annum. 40

To secure the payment of the aforesaid outstanding debt, the first party may mortgage the said flat for the aforesaid amount without the joint and several liability and in accordance with the terms of the mortgage the second party shall have to deliver bills to the mortgagee to cover the remainder of the aforesaid monthly instalments. The conditions of the mortgage deed shall be the same as the conditions of the mortgage deed of the Palestine Mortgage Bank Ltd.

The second party hereby deliver to the first party eighteen bills of LP.4.700 each being LP.1.620 on account of the payment of the LP.50 referred to in Article 2 (c) above and LP.3.080 on account of the payment of LP.400 referred to in Article 2 (d) above, as from the 10th of October 1938 and this shall be on account of the capital and the interest as aforesaid.

On the day of the transfer in the Land Registry the parties have to settle the account of the aforesaid instalments in accordance with the terms of the payments of the Mortgage Bank and to consider the aforesaid bills on account of the payment of the mortgage.

- 10 The costs to be involved in connection with the mortgage deed and the aforesaid transfer (second party's share) shall be borne by the first party as above.

Article 3 : First party deposits with Mr. Moshe Rojani and with the consent of the second party a bill for the sum of LP.100 (one hundred Palestine Pounds) to the order of the second party in consideration of the aforesaid advanced payment and it has been agreed that the aforesaid bill shall be returned to the first party without payment only on the day of the transfer in the Tabu of the building in the name of all the purchasers.

- 20 *Article 4 :* First party undertakes to hand over to the second party the flat at the time that the second party will require it and this shall be not later than two weeks from the day of signing this contract.

Article 5 : First party undertakes to transfer at the Land Registry the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership which shall be formed by all the flat-owners at any time that he will be required to do so by any of the flat-owners free from any charge (except the charge of the flat-owners in accordance with the contracts) and the first party undertakes as well to sign on all the necessary documents and to appear in the Land Registry Office.

- 30 In the event that such a committee or co-operative society shall not be formed within one year from the day of signing this contract, the first party shall transfer to the second party his share in the plot and in the building as aforesaid Musha'a.

Article 6 : Second party undertakes to pay their share in the Government and municipal taxes as from the day of their entering into the flat and also in the costs of the fuel for the central heating and hot water. The Government and municipal taxes up to date of the entry in the flat by the second party shall be borne by the first party.

- 40 *Article 7 :* First party undertakes to insure the house against fire and earthquake for the benefit of the tenant in proportion and the second party undertake to participate proportionally in these costs. The first party shall hand over to the second party the insurance policy.

Article 8 : The second party undertake to pay their proportional share in the canalisation expenses and road in the event that the first party or any other person shall pay the amount to be due by the second party.

Article 9 : The second party shall be entitled to hand over or to sell the aforesaid flat to another without the consent of the first party.

Exhibits.
 No. 2.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Nissim and
 Malkiel
 Mirakov
 Cohen
 (Transla-
 tion from
 Hebrew),
 8th August
 1938,
continued.

Exhibits.

No. 2.
Agreement
of Sale
between
Joseph
Forer and
Nissim and
Malkiel
Mirakov
Cohen
(Transla-
tion from
Hebrew),
8th August
1938,
continued.

Article 10 : The first party undertakes to complete finally the aforesaid building as the doors to the building, painting and whitewashing the corridors, and the roof fence, etc., as early as possible.

Article 11 : First party shall be responsible for the good standing of the building during one year from the day of signing this contract and he shall make the necessary repairs within the said period at his costs.

Article 12 : Any party committing a breach of this agreement shall pay to the other party the sum of LP.200 as prefixed liquidated damages, in the event that the first party shall commit the breach he shall have— in addition to the aforesaid amount—to return and to pay to the second party the money that he received in cash and in bills together with 9% interest on the aforesaid amount. 10

This contract has been made in duplicate and signed by both parties with the intervention and in the presence of Moshe Rojani with the free will of both parties and after the second party have seen the flat and were pleased.

Made this 8th day of August, 1938.

(Stamp and signature of parties.)

Witness : Signed M. ROJANI.

No. 9.
Agreement
of Sale
between
Joseph
Forer and
Gershon
Mabovitz
and Shifra
Gershono-
vitz
(Transla-
tion from
Hebrew),
17th
February
1939.

No. 9.—AGREEMENT OF SALE between Joseph Forer and Gershon Mabovitz and Shifra Gershonovitz. 20

(Translation from Hebrew.)

Made in Tel-Aviv on the 17th day of February, 1939, between Mr. Joseph Forer hereinafter called the first party on the one part and Mrs. Shifra Gershonovitz and Mr. Gershon Mabowitz hereinafter called the second party on the other part.

WHEREAS the first party has built a house of common ownership in Hashoftim Street 24, Tel-Aviv and has offered to the second party a flat in the aforesaid house, and whereas the second party has agreed to purchase from the first party a flat in the aforesaid house in accordance with the following conditions, therefore this contract was made. 30

1. First party hereby undertakes to sell and to transfer to the second party who agreed to purchase from the first party part of the plot registered in the Land Registry Office, Tel-Aviv, in Volume No. 53 folio 148 (situated in Hashoftim Street No. 24, Tel-Aviv), consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners. The sale includes also part of the building erected on the above-mentioned plot, namely, a flat in the third floor consisting of two rooms, kitchen, bathroom and w.c., the flat in the front, and also together with the flat-owners, the staircase, washing room, the garden and the roof, which the first party has to place at any time at the disposal of the purchaser as common owner. 40

2. The price of the aforesaid flat was fixed by both parties to be LP.450 (Four hundred and fifty Palestine Pounds) and shall be paid by

the second party to the first party in the manner and in the instalments as hereinafter stated :—

(a) LP.100 (One hundred Palestine Pounds) in cash on the date of signing this contract.

(b) LP.350 (Three hundred and fifty Palestine Pounds) in monthly instalments : commencing as from to-day the sum of LP.3.— per month during 20 years.

These instalments include also interest.

10 3. The costs to be involved in connection with the transfer of the flat in the Land Registry shall be borne by first party.

4. First party undertakes to transfer at the Land Registry the aforesaid plot and the whole of the building erected thereon to a committee or to a co-operative society of the house in common ownership which shall be formed by all the flat-owners at any time that he will be required to do so by any of the flat-owners free from any charge (except the charge of the flat-owners in accordance with the contracts) and the first party undertakes as well to sign on all the necessary documents and to appear in the Land Registry Office.

20 5. First party shall be responsible for the good standing of the building during one year from the day of signing this contract and shall make the necessary repairs within the said period at his costs and after the flat-owner leaves the flat.

6. Second party undertakes to pay his share in the Government and municipal taxes as from the day of his entering into the flat and also in the costs of the fuel for the central heating and hot water. The Government and municipal taxes up to the date of the entry in the flat by the second party shall be borne by the first party. The second party undertakes as well to pay his share in the insurance of the house against fire and earthquake.

30 7. The second party undertakes to pay his proportional share in the canalisation expenses and road in the event that the first party or any other person shall pay the amount to be due by the second party.

8. The second party shall be entitled to hand over or to sell the aforesaid flat to another without the consent of the first party.

9. Any party committing a breach of this agreement shall pay to the other party the sum of LP.150.— (One hundred and fifty Palestine Pounds) as prefixed liquidated damages.

40 This contract has been made in duplicate and signed by both parties with the free will of both parties and after the second party has seen the flat and was pleased.

Made this 17th day of February, 1939.

(Signatures of parties.)

Receipt : I hereby acknowledge receipt of the sum of LP.100.— from the second party in accordance with paragraph 2 (a). I have also received 12 monthly instalments in the amount of LP.36 in accordance with paragraph 2 (b), that means, from the 16th February, 1939, until the 16th February, 1940.

Exhibits.

No. 9.
Agreement
of Sale
between
Joseph
Forer and
Gershon
Mabovitz
and Shifra
Gershono-
vitz
(Transla-
tion from
Hebrew),
17th
February
1939,
continued.

*Exhibits.***No. 8.—AGREEMENT OF SALE between Joseph Forer and Simcha Trushinsky.**

(Translation from Hebrew.)

No. 8.
 Agreement
 of Sale
 between
 Joseph
 Forer and
 Simcha
 Trushinsky
 (Transla-
 tion from
 Hebrew),
 15th May
 1939.

Made in Tel-Aviv on the 15th day of May, 1939, between Mr. Joseph Forer, hereinafter called the first party and between Mr. Simcha Trushinsky, hereinafter called the second party on the other part. Whereas the first party has built a house of common ownership in 24, Hashoftim Street, Tel-Aviv, and has offered to sell to the second party a flat in the aforesaid house of common ownership. And whereas the second party has agreed to purchase from the first party a flat in the said house. Therefore this contract was made.

10

1. The first party hereby undertakes to sell and to transfer to the second party, who hereby agrees and undertakes to purchase from him part of the plot registered in the Land Registry Office, Tel-Aviv, in volume No. 53, folio 148 (situated in Tel-Aviv, 24, Hashoftim Street), consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners.

This agreement of sale includes also part of the building erected on the above mentioned plot, namely, a flat in the first floor consisting of three rooms, kitchen, bathroom and w.c. facing the yard, and also together with the other flat-owners, the staircase, washing room, the garden and the roof, which the first party has to place at any time at the disposal of the purchaser as common owner.

20

2. The price of the aforesaid flat was fixed by both parties to be Five Hundred and Fifty Palestine Pounds and shall be paid by the second party to the first party as follows: Twenty Five Palestine Pounds (25) in cash on the date of signing this contract, One Hundred and Fifty Palestine Pounds in cash on receiving the keys of the flat, Twenty Five Palestine Pounds by a bill for a period of six months from the day of the receipt of the keys and the entry into the flat, and the balance in the sum of Three Hundred and Fifty (350) Palestine Pounds by instalments, 30 per month. These instalments include interest.

3. The first party undertakes to hand over to the second party the above flat not later than three months as from to-day, that is to say, not later than 15.8.39. Otherwise, for every day of delay in delivering the flat, the first party shall pay to the second party 250 mils per day.

4. The first party undertakes to transfer at the Land Registry the above plot and the whole of the building erected thereon to the committee or the co-operative of the house owned in common, which will be formed by all the flat-owners, at any time that he will be required so to do by one of the flat-owners, free from any charge (except the charge of the flat-owners in accordance with the contracts), and the first party undertakes as well to sign all the necessary documents and to appear in the Land Registry Office.

40

5. The first party undertakes to insure the house against fire and earthquake for the benefit of the second party in proportion.

6. The first party undertakes to deliver to the second party the flat complete, repaired and arranged as required by the second party.

7. The second party undertakes to pay his share in the Government and municipal taxes as from the day of his entering into the flat and also in the costs of the fuel for the central heating and hot water. The Government and municipal taxes shall be borne by the first party up to the date of the entry in the flat by the second party.

8. The second party shall be entitled to hand over or to sell the above flat to another without the consent of the first party.

9. Any party breaking the present contract shall pay to the other party as prefixed liquidated damages the sum of One Hundred and Fifty
10 Palestine Pounds, without any notarial or other legal notice.

This contract has been made in two copies to be deemed as one and was signed by both parties by their free will and after the second party has seen the flat and was pleased.

This 15th day of May, 1939.

(Signatures.)

Exhibits.

No. 8.
Agreement
of Sale
between
Joseph
Forer and
Simcha
Trushinsky
(Translation
from
Hebrew),
15th May
1939,
continued.

No. 1.—AGREEMENT OF SALE between Joseph Forer and Bracha Ben-Ya'acov.

(Translation from Hebrew.)

Made and signed in Tel-Aviv, on the 21st day of May, 1939, between
20 Mr. Joseph Forer, hereinafter called for short the first party, on the one
part; and Mrs. Bracha Ben-Ya'acov of Tel-Aviv, hereinafter called for
short the second party on the other part.

Whereas the first party is the owner of a parcel No. 457 in block 6304 in Tel-Aviv (Hashoftim Street 24) registered in his name in the Land Registry Office, Tel-Aviv in Volume No. 53 Folio 148, and

Whereas the first party has erected on the above parcel a house of common ownership consisting of 10 flats and this house contains 26 rooms and conveniences, and

Whereas the first party has agreed to sell to the second party and the second party has agreed to purchase from the first party a flat in the above
30 house under the conditions stated below,

Therefore it was agreed and conditions made between the parties as follows :—

Article 1 : The first party hereby undertakes to sell and to transfer to the second party and the second party hereby undertakes to purchase and receive from the first party a part of the above plot consisting of an area to be in proportion to the number of rooms to be owned together with the other flat-owners.

The first party undertakes as well to sell and to hand over to the second party, and the second party undertakes to purchase and to receive from

No. 1.
Agreement
(Translation
from
Hebrew),
21st May
1939.

Exhibits.
 ———
 No. 1.
 Agreement
 (Transla-
 tion from
 Hebrew),
 21st May
 1939,
continued.

the first party a flat facing the yard, in the third floor, containing 3 rooms, a kitchen, bathroom and w.c., and also together with the other flat-owners the staircase, washing room, the garden and the roof.

Article 2 : The price of the above flat has been fixed by both parties to be LP.500, and the second party undertakes to pay the above amount to the first party as follows :—

(A) LP.200 in cash at the time of signing this contract and the first party hereby acknowledges the receipt of this amount.

(B) LP.300 in cash at the time of transfer of the plot and the building at the Land Registry Office to the names of two or three of the purchasers of the flats in the above building of common ownership. 10

In the event that the transfer will be effected before the tenants living in the flat will vacate it, then the second party will pay to the first party at the time of the transfer LP.200 only, and he will deposit the balance of LP.100 at the Workers' Bank or at another bank agreed upon between the parties, in order to remit it to the first party after the handing over of the flat to the second party when it is completely vacated by the tenants.

The first party undertakes to hand over to the disposal of the second party the room from the three rooms of the above flat not later than the 3rd July, 1939, and two rooms not later than the 1st October, 1939, otherwise he will pay for every day of delay in handing over ; in the first case 100 mils a day and in the second case 250 mils a day, and this as prefixed damages for the damages that may be caused to the second party through the delay in handing over, and without the necessity of notarial notices or other notices. 20

Article 3 : The second party hereby declares that he has seen the flat before the signing of the contract and has agreed to purchase it.

Article 4 : The first party undertakes to hand over to the second party, the flat in good condition, repaired and arranged as requested by the second party. 30

Article 5 : The second party shall be entitled to sell the above flat and hand it over to another without the need of receiving the first party's consent to it.

Article 6 : The second party undertakes from the day of his entry into the flat to pay his share in the taxes, both Government and Municipal, and also to take part in the expenses for the fuel, central heating and hot water, the keeping of the house, and in the insurance payments against fire and earthquake. 40

Until the handing over of the flat to the second party, all these payments are to be borne by the first party.

The first party undertakes to transfer the above plot and the whole building erected thereon to the name of two or three of the purchasers of the flats in the house of common ownership, and they will hold it in favour of all the purchasers of the flats in the above house, during 10 days from the day when the request will be made by the purchasers of the flats and

not later than the 1st December, 1939, and he undertakes to sign all the necessary documents and to appear in the Land Registry Office in order to effect the transfer.

Exhibits.
—
No. 1.
Agreement
(Translation from
Hebrew),
21st May
1939,
continued.

The plot and the house will be transferred when they are clean from all debt, mortgage, attachment or any appeal, except from the mortgages for the debts of the flat-owners in accordance with their contracts which are :—

- 10 (A) first mortgage to the Mortgage Bank for the amount of LP.2400.—
(B) second mortgage to Mrs. Gertrude Mayer for the amount of LP.900.—
(c) third mortgage for security to Mrs. Dvora Guterman for the amount of LP.600.—

20 *Article 7 :* The first party declares and hereby certifies that with the payment of the amount of LP.500 mentioned in paragraph 2, the second party settles the whole price of the flat and he will not be liable for any payments and undertakings in connection with the mortgages referred to in the previous provision and as security to this provision the first party undertakes to cause at the time of the transfer of the plot and house that a fourth mortgage be registered in favour of the second party as security for the amount of LP.500.—, and in the mortgage there will be a condition, to the effect that after the settlement of the above second mortgage for the amount of LP.900 the fourth mortgage will step in the second place, but the first party will also have the right to register the second mortgage in the sum of LP.500 in his favour *pari passu*, if he wishes, and the first party assumes the responsibility that Mrs. Dvora Guterman owner of the third mortgage agrees to all this.

30 *Article 8 :* Any party committing a breach of this contract or any of its provision, he will have to pay to the other party the sum of LP.150 as prefixed and agreed damages for the damages which may be caused to him through this breach, without the need for proving the damages and without the necessity of notarial warnings or any other warnings, because both parties have agreed that there should be no need for warnings and have agreed that the mere fact of committing a breach of the contract or any of its conditions by any of the parties will serve as a notarial warning and will come in its place. If the first party will commit the breach, then besides the above damages he will be bound to return immediately to the second party and without any delay the amount of LP.200 which he has received from him at the time of signing the contract.

40 *Article 9 :* This contract has been made in duplicate deemed as one. All this has been made with the free will and complete consent of both parties and after they have read the contract attentively they have set their signatures.

In Tel-Aviv on the 21st day of May, 1939.

Signed on a stamp of 50 mils,

JOSEPH FORER.

BRACHA BEN-YA'ACOV.

*Exhibits.***No. 12.—LETTER from Advocate M. Nader to J. Forer.**

No. 12.
Letter from
Advocate
M. Nader
to J. Forer
(Exhibit
D/1 in
Land Case
No. 16/44).
(Transla-
tion from
Hebrew),
13th July
1939.

(Exh. D/1 in Land Case No. 16/44.)

(Translation from Hebrew.)

13.7.39.

Registered.

WITHOUT PREJUDICE.

Mr. Joseph Forer,
38, Hagdud Haivri St.,
Tel-Aviv.

Dear Sir,

10

I was instructed by my client Mrs. Esther Mamanov to inform you as follows :—

1. Pursuant to the agreement between yourself and my said client dated the 26.5.38, I hereby demand of you to transfer to the name of my said client her share in the property bought by her from you, and which you undertook to transfer into her name in the Land Registry as Masha'a.

2. You should complete the construction of the building : repairs to doors, whitewashing and painting of corridors, railing, etc.

3. You should comply with all other terms of the said agreement 20 without any exception.

Should you fail to comply with the demands of my said client within a fortnight (14 days) as from the date of the receipt of this my letter you shall be deemed to have committed a breach of the agreement aforementioned and my client shall have to take legal steps against you for the protection of her rights under the agreement.

Yours faithfully,

(Sgd.) M. NADER,

Advocate.

No. 11.—NOTARIAL NOTICE from J. Forer to B. Ben-Ya'acov.

(Exhibit P/1 in Land Case No. 16/44.)

(Translation from Hebrew.)

2650/3
1130Seal of the Court of the
27.12.1939
No. 834888.*Exhibits.*No. 11.
Notarial
Notice from
J. Forer to
B. Ben-
Ya'acov
(Exhibit
P/1 in
Land Case
No. 16/44).
(Transla-
tion from
Hebrew),
27th
December
1939.

I the undersigned, Joseph Forer, hereby give notice to Mrs. Bracha
10 Ben-Ya'acov of Tel-Aviv, 24 Hashoftim Street, as follows :—

Whereas under article 1 of the contract entered between us on 21.5.1939
you bought from me part of plot No. 457 in block 6304 in Tel-Aviv
registered in the Land Registry Office, Tel-Aviv, in Volume No. 53,
Folio 148 (situated in Tel-Aviv, 24, Hashoftim Street) of an area in
proportion with the number of rooms owned with the other flat owners,

And whereas you undertook to pay as price for the flat the sum of
LP.500 and you have already paid LP.200 and you are still owing the sum
of LP.300,

And whereas you undertook together with the other flat owners to
20 demand from me the transfer of the above plot and the whole building
erected thereon into the name of two or three of the flat owners in the said
house, which they will hold for the benefit of all the flat purchasers in the
said house, and I undertook to transfer the plot and the whole building
within ten days as from the day on which a request will come to that
effect by all the flat purchasers, and not later than the 1st of December,
1939,

And whereas under Article 2 of the contract you undertook to pay
to me the balance in the sum of LP.300 in cash upon the transfer of the
plot and the building in the Land Registry into the name of two or three
30 of the flat purchasers in the said house owned in common,

Therefore, I hereby give you notice as follows :—

In the event that you will not see to it that within 10 days from
the date of the receipt of this notice of mine, all the flat owners, all together
with you, will demand from me the transfer of the said plot and the building
into the name of two or three of the flat purchasers of the said house owned
in common, and if you will not enable me to transfer the plot and the
building and to receive from you the above balance, you will be responsible
for all the damages and losses that I suffered and that I shall suffer as
a result of your breach of the contract made between us on 21.5.39
40 through your non-fulfilment of your aforesaid undertakings or any of them
and you have to compensate me for any costs of action and advocate's
fees which I shall have to spend in order to collect the aforesaid damages
from you and for the costs of sending this notary public notice and in
addition to that you shall have to return to my disposal the flat which is
the subject matter of the contract between us dated 21.5.39. AND YOU
SHALL BE LIABLE TO PAY RENT FOR ANY ADDITIONAL DAY

Exhibits.

—
No. 11.
Notarial
Notice from
J. Forer to
B. Ben-
Ya'acov
(Exhibit
P/1 in
Land Case
No. 16/44),
(Transla-
tion from
Hebrew),
27th
December
1939,
continued.

that you will stay in the flat after the expiration of the period prescribed in this notarial notice of mine, and I shall be entitled as well to sell the aforesaid flat to anyone I wish, and any losses that I suffered or shall suffer as a result of such a sale, shall be borne by you.

And I request from the Notary Public to furnish you with a copy of this notice.

In witness whereof I set my hand.

JOSEPH FORER.

Vol. 90, Fol. 2650.

To :

Mrs. Bracha Ben-Ya'acov,
Tel-Aviv.

10

Dear Madam,

At the request of Mr. Joseph Forer, an inhabitant of Tel-Aviv I send to you this Notary Public Notice. Please acknowledge receipt thereof, to-day the 27th day of December, 1939.

N. BARNETT,

Notary Public,

Tel-Aviv.

I have handed to the above and she signed.

20

Signature.

29.12.39.

No. 10.
EXTRACT OF REGISTRATION.
GOVERNMENT OF PALESTINE

EXTRACT FROM THE REGISTER OF DEEDS
LAND REGISTRY OFFICE OF TEL-AVIV
Volume No. 53, 69

Folio No. 148, 81

Extract No. 48/8/44

Block No. 6904
Parcel No. 457

Exhibits.
No. 10.
Extract of
Registration
Office, (Land
Registry
Office,
Tel-Aviv),
10th
August
1944.

Town or Village : Tel-Aviv

Petition No.

No. of Deed	Date of Registration	Class of Land	Description of Property	Boundaries	Area Dunums Metres	Nature of Transaction	Name of Grantor	Name of Grantee	Shares	Consideration or Value		Remarks
										LP.	Mils	
3490	31. 8. 37	Mulk	Land for building	N. Road S. Parcels Nos. 451-452 E. Parcel No. 458 W. Parcel No. 456	-	Sale without consideration	Bank Ashrai Ltd.	Joseph Forer	Whole	Valued 738	-	Petition No. 1670/37
4684	2. 12. 37	do.	do.	do.	492	First Mortgage	Joseph Forer	The General Mortgage Bank of Palestine Ltd.	do.	1300	-	Petition No. 2030/37 Mortgage corr. as per Deed No. 792 of 1938 F.418/38
792	28. 2. 38	do.	do.	do.	492	Additional Mortgage to Deed No. 4684/37	do.	do.	do.	1100	-	Petition No. 418/38
2499	12. 7. 38	do.	do.	do.	492	Third Mortgage due on 12. 7. 1948	do.	Devora Guterman	do.	600	-	Petition No. 1350/38
3252	29. 11. 42	do.	do.	do.	492	Transfer of Mortgage No. 4447/37	Ludwig & Gertrud Meyer	Imanuel Zfati Bracha Ben Ya'acov Michael Dov Guterman Etia Malka Lev Michael Mamanov	3/18 2/18 3/18 2/18 2/18	747	855	Petition No. 1813/42 Attached by Magistrate, Tel-Aviv under No. 576/44 of 3.3.44 Attached by Magistrate, Tel-Aviv, under No. 574/44 of 3.3.44 Attached by Magistrate, Tel-Aviv, under No. 572/44 of 3.3.44 Attached by Magistrate, Tel-Aviv, under No. 579/44 of 3.3.44
2346	25. 7. 43	do.	do.	do.	492	Fifth Mortgage due on 25. 7. 44	Joseph Forer	Benna Vortman	1/18	2000	-	CF 1476/43
2555	17. 8. 43	do.	do.	do.	492	Transfer of Mortgage No. 1937/43	John Arnold	Binyamin Man Meir Wind Gershon Mabovitz Sosha Gissin Rabinovitz Josef Klein Abraham Klein	1/18 1/18 1/18 In whole In whole	2000	-	CF 1598/43

I certify that the above is a true extract from the Register of Deeds given against payment of LP.0.200 Mils as per Receipt No. 810283 of 10.8.44.

Signature of Registrar of Lands
on 50 Mils Revenue Stamp.
13.8.44.

Date 10.8.44.