

20, 1953

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No. 131 1952

UNIVERSITY OF LONDON
 W.C.1.
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 District Court, Colombo
 INSTITUTE OF ADVANCED
 No. 175/ZL. LEGAL STUDIES

Supreme Court of Ceylon.
 No. 534 (Final) of 1949.

IN HIS MAJESTY'S PRIVY COUNCIL
 ON AN APPEAL FROM
 THE SUPREME COURT OF CEYLON

BETWEEN

Mrs. BRIDGET ANTONY of Whist Bungalow,
 Modera Street, Mutwal, Colombo.. *Plaintiff-Appellant.*

AND

1. Miss IMELDA WEERASEKERA, and
2. OLIVER GILES DE ZOYSA, both of Park
 Avenue, Borella, Colombo :..... *Defendants-Respondents.*

RECORD
 OF PROCEEDINGS

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No.....

Supreme Court of Ceylon
No. 584 (Final) of 1949

District Court, Colombo.
No. 175/ZL

IN HIS MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON

BETWEEN

MRS. BRIDGET ANTONY of Whist Bungalow,
Modera Street, Mutwal, Colombo..... *Plaintiff-Appellant.*

AND

1. MISS IMELDA WEERASEKERA and
2. OLIVER GILES DE ZOYSA, both of Park
Avenue, Borella, Colombo..... *Defendants-Respondents.*

RECORD OF PROCEEDINGS

PART I.

PART I.

No. 1

No. 1
Journal
Entries
11-6-46 to
1-12-49

Journal Entries.

JOURNAL

The 11th day of June, 1946.

Mr. S. A. Jayasekera, Proctor, files appointment and plaint together with copy of deed of gift No. 602.

Plaint accepted and summons ordered for 12-7-46.

Intld.

10

D. J.

11-6-46. Summons issued on 2nd defendant W. P.

12-7-46. Summons served on 1st defendant and 2nd defendant.
Proxy filed. Answer 23-8.

Intld.

D. J.

23-8-46. Messrs. P. D. A. Mack & Sons for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
Answers S. O. 30-8.

20

Intld. W. S.,
D. J.

30-8-46. Answer of 1st defendant filed.
Answer of 2nd defendant filed.
Trial 20-2-47.

Intld. W. S.,
D. J.

16-1-47. Proctor for plaintiff with notice to Proctors for 1st defendant and 2nd defendant files plaintiff's list of witnesses and moves for summons.
Allowed.

30

Intld. W. S.,
D. J.

18-1-47. Proctors for 1st defendant with notice to Proctor for plaintiff file 1st defendant's list of witnesses and move for summons on them.
Allowed.

Intld. W. S.,
D. J.

27-1-47. Summons issued on six witnesses by plaintiff,

No. 1
Journal
Entries
11-6-46 to
1-12-49
—continued.

- 30-1-47. Proctor for plaintiff with notice to Proctors for 1st and 2nd defendants files plaintiff's additional list of witnesses and moves for summons.
Allowed.
Intld. W. S.,
D. J.
- 30-1-47. The 1st defendant with the consent of Proctors for 1st defendant moves for leave of Court to cancel the paper writing granted by her to Messrs. P. D. A. Mack & Sons.
Allowed. 10
Intld. W. S.,
D. J.
- 6-2-47. Mr. P. S. de Kretser files Proxy of 1st defendant together with revocation of proxy granted to Messrs. P. D. A. Mack & Sons.
File.
D. J.
- 14-2-47. Proctor for defendant files list of witnesses and moves for summons.
Proctor for plaintiff received notice.
Allowed. 20
Intld. S. C. S.,
D. J.
- 14-2-47. Summons issued on one witness by 1st defendant.
- 14-2-47. Proctor for 1st defendant moves for a duplicate summons to be served on Father E. A. Bourjois, O.M.I., St. James' Church, Mutwal, as the witness is now in Colombo.
Allowed on schedule stamps.
Intld. S. C. S.,
D. J.
- 14-2-47. Duplicate summons issued on one witness by 1st defendant. 30
- 20-2-47. Trial.
Mr. S. A. Jayasekera for plaintiff.
Mr. P. S. de Kretser for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
For personal reasons I do not desire to try this case. Let it be called before Mr. Sinnatamby for him to give the parties a suitable date of trial.
(Sgd.) S. C. SWAN.
- Mr. Adv. Nadarajah with Mr. Adv. Kulatunga for plaintiff.
Mr. Adv. Gratiaen, K.C., with Mr. Herath for 1st defendant. 40
Mr. Adv. Cyril Perera with Mr. Adv. Kulatunga and Mr. Adv. Gooneratne for 2nd defendant,

There is a petty land case before me today which will take the whole day.
Trial fixed for 23-7-47.

Intld. N. S.

No. 1
Journal
Entries
11-6-46 to
1-12-49
—continued.

- 4-6-47. The 1st defendant with the consent of his Proctors moves for leave to cancel the paper writing granted by her to Mr. P. S. de Kretser, Proctor.
Allowed.
- 10 Intld. N. S.,
A. D. J.
- 17-6-47. Mr. T. H. Jansz files proxy of the 1st defendant with formal revocation.
File.
- Intld. N. S.,
A. D. J.
- 19-6-47. Proctor for 1st defendant files additional list of witnesses and moves for summons.
Proctor for plaintiff received notice.
Allowed.
- 20 Intld. N. S.,
A. D. J.
- 23-6-47. Summons issued on two witnesses by 1st defendant.
- 16-7-47. Proctor for plaintiff with notice to Proctors for 1st and 2nd defendants files plaintiff's additional list of witnesses and moves for summons on them.
Allowed.
- A. D. J.
- 16-7-47. Summons issued on two witnesses by plaintiff.
- 18-7-47. Proctor for 1st defendant with notice to Proctor for plaintiff files 1st defendant's additional list of witnesses and moves for summons on them.
- 30 Allowed.
- Intld. S. C. S.,
A. D. J.
- 19-7-47. Summons issued on two witnesses by 1st defendant.
- 22-7-47. Summons issued on one witness by plaintiff.
- 23-7-47. Trial.
Mr. S. A. Jayasekera for plaintiff.
Mr. T. H. Jansz for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.

No. 1
Journal
Entries
11-6-46 to
1-12-49
—continued.

1st defendant's additional list of witnesses filed.
Plaintiff's further list of witnesses and documents filed, *vide*
proceedings.
Further hearing on 20th, 21st, 22nd October, 1947.

Intld. N. S.,
A. D. J.

- 1-10-47. Summons issued on two witnesses by 1st defendant.
- 15-11-47. Summons issued on one witness by plaintiff.
- 20-10-47. Trial. 10
Mr S. A. Jayasekera for plaintiff.
Mr. T. H. Jansz for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
A. D. J. on leave.
Call on " D " Court on 21-10.
Intld. S. C. S.,
- 21-10-47. Trial.
Vide proceedings filed.
Final hearing tomorrow.
A. D. J.
- 22-10-47. Trial. 20
Mr. S. A. Jayasekera for plaintiff.
Mr. T. H. Jansz for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
Vide proceedings filed.
Further hearing on 15th, 17th, 18th and if necessary on 19th
December, 1947.
Intld. N. S.,
A. D. J.
- 15-12-47 Mr. S. A. Jayasekera for plaintiff. 30
Mr. T. H. Jansz for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
Vide proceedings filed.
Medical certificate of 1st defendant filed.
Further hearing 16-12-47.
Intld. N. S.,
A. D. J.
- 16-12-47. Trial. 40
Vide proceedings filed.
Trial postponed for 9th, 10th and 25th February, 1948, and 5th,
12th and 15th March, 1948.
Intld. N. S.,
A. D. J.

- 9-2-48. Trial.
Vide proceedings filed.
 Further hearing on 25-2-48.
- 25-2-48. Trial.
 Mr. S. A. Jayasekera for plaintiff.
 Mr. T. H. Jansz for 1st defendant.
 Mr. M. N. M. Salahudeen for 2nd defendant.
Vide proceedings filed.
 Further hearing on 5-3-48.
- 5-3-48. Trial.
Vide proceedings filed.
 Further hearing for 12-3-48.
- 9-3-48. Summons issued on one witness by 1st defendant.
 Summons issued on one witness by 1st defendant.
- 12-3-48. Trial.
 Mr. S. A. Jayasekera for plaintiff.
 Mr. T. H. Jansz for 1st defendant.
 Mr. M. N. M. Salahudeen for 2nd defendant.
 Mr. M. D. Goonetilleke files proxy of plaintiff.
Vide proceedings.
 Further hearing on 15-3-48.
- 3015-3-48. Trial.
Vide proceedings filed.
 Further hearing on 26th and 28th May, 1948, and 15th and 17th
 June, 1948.
Vide motion filed. Issue summons on Registrar of Lands,
 Colombo.
- 27-4-48. Proctor for plaintiff with notice to Proctor for 1st and 2nd
 defendants files bill of costs of 15th, 16th, 17th, 18th and
 19th December, 1947, payable by defendants.

Intld. N. S.,
 A. D. J.

No. 1
 Journal
 Entries
 11-6-48 to
 1-12-49
 —continued.

No. 1
Journal
Entries
11-6-46 to
1-12-49
—continued.

- 27-4-48. Proctor for 2nd defendant files objections to the bill and points out that no costs are due from his client to the plaintiff.
Note.
Intld. N. S.,
A. D. J.
- 27-4-48. Proctor for 1st defendant forwards his objections to the bill of costs submitted by plaintiff.
Taxing officer to note.
Intld. N. S.,
A. D. J. 10
- 15-5-48. Copy of order filed.
Bill taxed as follows :—
Costs incurred ... Rs. 675·36
Prospective costs ... „ 606·70

Rs. 1,282·06
- 26-5-48. Trial.
Mr. M. D. Goonetilleke for plaintiff.
Mr. T. H. Jansz for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
Vide proceedings filed. 20
Further hearing on 28-5-48.
Intld. N. S.,
A. D. J.
- 28-5-48. Trial.
Vide proceedings filed.
Further hearing on 15-6-48.
Intld. N. S.,
A. D. J.
- 1-6-48. Proctor for plaintiff files application for execution of decree and moves to issue writ against the defendants. 30
Allowed.
Intld. N. S.,
A. D. J.
- 3-6-48. Writ issued on 1st and 2nd defendants for costs returnable 2-6-49
Intld.
- 8-6-48. Costs in this case was awarded against the 1st defendant on her application for a postponement of the case on certain dates fixed for trial. Writ has now been issued to the Fiscal, W. P. against his client the 2nd defendant also. As no costs are due by 2nd defendant to the plaintiff for the postpone-40
ment made on the application of 1st defendant Proctor for

2nd defendant moves that writ against 2nd defendant be recalled.

Notice plaintiff for 15-6. Stay execution in meanwhile on payment of charges as against 2nd defendant only.

No. 1
Journal
Entries
11-6-48 to
1-12-49
—continued.

Intld. N. S.

15-6-48. Trial.

Mr. M. D. Goonetilleke for plaintiff.

Mr. T. H. Jansz for 1st defendant.

Mr. M. N. M. Salahudeen for 2nd defendant. Notice not issued.

10

Vide proceedings filed.

Order on 17-6-48. Further hearing same date.

Intld. N. S.,
A. D. J.

17-6-48. Trial.

Mr. M. D. Goonetilleke, for plaintiff.

Mr. T. H. Jansz for 1st defendant.

Mr. M. N. M. Salahudeen for 2nd defendant.

Order delivered in open Court.

Vide proceedings filed.

20

Further hearing tomorrow 22nd and 27th July.

A. D. J.

18-6-48. Further hearing.

No hearing.

26-6-48. The Deputy Fiscal, Colombo, reports at the request of the Proctor for plaintiff the movable property appearing in the hereto annexed copy of the seized list was seized. The necessary expenses for the due custody of the property so seized were not advanced or secured. Movable property is valued at Rs. 1,240.

30 23-6-48. Proctor for plaintiff moves for an order of Court directing the Fiscal, Colombo, to return the writ issued against the defendants unexecuted to Court on payment by defendants of Fiscal's charges if any as the 1st defendant has paid plaintiff the sum of Rs. 750 in full settlement of the writ.

Pay stamp duty and move.

Intld. N. S.,
A. D. J.

22-7-48. Trial continued.

Mr. M. D. Goonetilleke for plaintiff.

40

Mr. T. H. Jansz for 1st defendant.

Mr. M. N. M. Salahudeen for 2nd defendant.

Vide proceedings filed.

Intld. N. S.,
A. D. J.

No. 1
Journal
Entries
11-8-48 to
1-12-49
—continued.

- 27-7-48. Trial. Appearances as before.
Vide proceedings filed.
Judgment on 8-9-48.
Intld. N. S.,
A. D. J.
- 28-7-48. Proctor for 1st defendant files documents marked 1 D1—1 D5a.
(Rs. 66 affixed). Check and file.
Intld. N. S.,
D. J.
- 2-8-48. Proctor for 2nd defendant files documents marked 2 D1—2 D10. 10
(Rs. 39.60 affixed). Check and file.
Intld. N. S.,
A. D. J.
- 3-8-48. Proctor for plaintiff files documents marked P1—P25.
(Rs. 118.80). Check and file.
Intld. N. S.,
A. D. J.
- 8-9-48. Judgment delivered in open Court. I dismiss plaintiff's action
with costs.
Intld. N. S. 20

DECREE

It is ordered and decreed that the plaintiff's action be and the same is hereby dismissed with costs.

(Sgd.) N. SINNETAMBY,
Addl. District Judge.

The 8th day of September, 1948.

- 16-9-48. Mr. M. D. Goonetilleke, Proctor, files petition of appeal from the plaintiff-appellant against the judgment of this Court dated 8-9-48, and tenders stamps to the value of Rs. 54 for the certificate of appeal and Rs. 108 for the Supreme Court judgment.
Stamps affixed to certificate and Supreme Court judgment form and cancelled.
Accept. Intld. N. S.,
D. J.
- 16-9-48. The petition of appeal of the plaintiff-appellant having been filed, Proctor for plaintiff-appellant will deposit on 27-9-48, a sum of Rs. 500 (*i.e.* Rs. 250 to each one of the respondents)

to cover the respondents' costs of appeal and will deposit
Rs. 18 to cover the expenses of serving notice.
Proctors for 1st and 2nd respondents received notice.
Call on 27-9. Issue voucher.

No. 1
Journal
Entries
11-6-46 to
1-12-49
— *continued.*

Intld.
D. J.

16-9-48. Proctor for appellant files application for typewritten copies
and moves for a pay-in-voucher for Rs. 50.
Issue.

10

Intld.
D. J.

18-9-48. Paying-in-voucher for Rs. 500 and Rs. 50 issued.

27-9-48. Mr. M. D. Goonetilleke for plaintiff, present.
Mr. T. H. Jansz for 1st defendant.
Mr. M. N. M. Salahudeen for 2nd defendant.
Case called *vide* security.
Respondents and Proctors absent
Security tendered is accepted.
Issue D. N. N.

20

Issue notice of appeal, on bonds being perfected for 8-11.

Intld.
D. J.

27-9-48. Proctor for appellant tenders two security bonds and two notices
of appeal.
(1) File.
(2) Issue notice of appeal for 8-11.

Intld.
A. D. J.

27-9-48. Kachcheri receipt V/7 18798 for Rs. 250 filed.

30 27-9-48. Kachcheri receipt V/7 18799 for Rs. 250 filed.

28-9-48. Notice of appeal issued on Proctors for 1st and 2nd respondents
to W. P.

Intld.

28-9-48. Kachcheri receipt V/7 No. 18444 for Rs. 50 filed.

2-11-48. Proctor for 1st respondent files application for two typewritten
copies and moves for a paying-in voucher for Rs. 50.
Issue.

Intld.
A. D. J.

No. 1
Journal
Entries
11-6-46 to
1-12-49
—continued.

- 3-11-48. Paying-in voucher for Rs. 50 issued.
- 8-11-48. Notice of appeal served.
Forward record to Supreme Court.

Intld.
Addl. District Judge.

- 22-2-49. Kachcheri receipt V/7 1934/53645 of 17-2-49 for Rs. 50 filed.
- 11-6-49. The Deputy Fiscal, Colombo, reports that the Proctor for plaintiff failed to deposit advertisement charges.

Intld.
D. J. 11-6. 10

- 21-11-49. *Vide* letter from appeal brief typists' branch additional fees are required.
Called for.

Intld.
D. J.

- 22-11-49. Voucher for Rs. 175 forwarded to Proctor for appellant with memo.
Voucher for Rs. 450 forwarded to Proctor for 1st respondent with memo.

Intld. 20

- 30-11-49. Kachcheri receipt K/8 2887/021695 of 29-11-49 for Rs. 175.

- 1-12-49. Record together with Volume 2 and two briefs is forwarded to Registrar, Supreme Court.

Intld.

No. 2
Plaint of the
Plaintiff
11-6-46

No. 2

Plaint of the Plaintiff.

IN THE DISTRICT COURT OF COLOMBO

BRIDGET ANTONY of "Whist Bungalow", Mutwal,
Colombo*Plaintiff*

No. 175/Z Vs. 30

- 1. MARY IMELDA WIRASEKERA of St. Bridget's Convent, Colombo
- 2. OLIVER GILES DE ZOYSA of Park Avenue, Borella,
Colombo*Defendants.*

This 11th day of June, 1946.

The Plaintiff of the plaintiff abovenamed appearing by Stephen Anthony Jayasekera her Proctor, states as follows :—

No. 2
Plaintiff
11-6-46
—continued.

1. The lands which are the subject-matter of this action are situated and the cause of action hereinafter set out arose at Colombo within the jurisdiction of this Court.
2. The plaintiff was at all material times the lawful owner and seised and possessed of the lands and premises situated within the Municipality of Colombo and more fully described in the Schedule hereto.
- 10 3. The plaintiff who is a widow aged 70 years has been living and is living at " Whist Bungalow ", Mutwal, where the 1st defendant a daughter of the plaintiff's deceased daughter Margaret lived up to the 12th of April, 1946.
4. The 2nd defendant commenced to visit the plaintiff in or about the year 1945 and to evince concern and interest in the plaintiff and the 1st defendant and continued such behaviour as a self-constituted friend and adviser to the plaintiff.
5. In or about November, 1945, the 2nd defendant through his brother John Zoysa suggested to the plaintiff a marriage between the
20 2nd defendant's son and the 1st defendant to which proposal the plaintiff did not agree.
6. Notwithstanding the plaintiff's rejection of the said proposal the 2nd defendant continued his visits which became more frequent thereafter and gained an ascendancy over the minds of the 1st defendant and the plaintiff with a view to gaining his purpose of putting through the marriage of his son with 1st defendant and securing all the properties of the plaintiff for the benefit of his son.
7. With the aforesaid intent, the 2nd defendant succeeded in making the 1st defendant amenable to his wishes prior to the dates hereinafter
30 set out, and at the instigation of the 2nd defendant the 1st defendant expressed a desire to be a boarder at St. Bridget's Convent, Colombo.
8. On the 11th of April last the 2nd defendant visited the plaintiff at " Whist Bungalow " and offered to take the plaintiff and the 1st defendant to St. Bridget's Convent on the following day on which day he took them in his car to one Dr. Van Dort's house in Bambalapitiya on the pretext that they were being taken to the said Convent.
9. At the said Dr. Van Dort's house, to the plaintiff's surprise the 2nd defendant informed her that a deed was ready for her signature donating some property to the 1st defendant subject to a life-interest in
40 plaintiff's favour and that it would be in her own interest to sign the deed.
10. The plaintiff refused to sign the said deed without consulting her brothers or lawyers but the 2nd defendant and those present induced and prevailed upon her to sign the deed the contents of which she was not made aware of. A copy of the said deed which bears No. 602 dated 12th April, 1946, attested by J. A. V. Modder, Notary Public, is herewith filed marked A and pleaded as part and parcel of this plaint.

No. 2
Plaintiff of the
11-6-46
—continued.

11. The 1st defendant was fully aware of the aforesaid circumstances under which the said deed was executed in her favour.

12. The plaintiff subsequently found that the deed she so signed conveyed as a Gift absolute all the valuable properties she was possessed of.

13. The 1st defendant subsequently agreed to re-transfer the said properties to the plaintiff but has failed and neglected to do so though thereto demanded.

14. The plaintiff states that the deed of gift in question was not her act and deed inasmuch as she did not know the contents of the said deed. 10

15. By reason of the aforesaid premises a cause of action has accrued to the plaintiff to sue the defendants for a declaration that the said Deed of Gift in favour of the 1st defendant is void on the ground that it was obtained by pressure and surprise and without making her aware of the contents and through the exercise of undue influence and by fraudulent representations.

16. The subject-matter of the action is according to the said deed valued at Rs. 150,000.

17. The 2nd defendant is made a party to this action as his presence before this Court is necessary in order to enable the Court effectually and 20 completely to adjudicate upon all the questions involved in the action.

Wherefore the plaintiff prays :

(a) that the said Deed of Gift in 1st defendant's favour be declared null and void ; or

(b) that the Court be pleased to set aside the Deed of Gift ;

(c) for an order on the 1st defendant to execute a conveyance in favour of the plaintiff in respect of the said properties ;

(d) that the Court be pleased to execute the necessary deed conveying the said properties to the plaintiff in the event of 1st 30 defendant's default to convey ;

(e) for an order for costs ; and

(f) for such other and further relief as to this Court shall seem meet.

(Sgd.) S. A. JAYASEKERA,
Proctor for Plaintiff.

The Schedule referred to above.

1. An undivided half ($\frac{1}{2}$) of all that allotment of land together with the buildings standing thereon called and known as " Whist Bungalow " bearing Assessment Nos. 93, 101, 103, 105 and 107 situated at Modera Street, Mutwal, within the Municipality and District of Colombo Western Province, bounded on the East by the property of W. Juan Fernando and 40 others, south-east by Modera Street, south and south-west by Whist

passage and on the west and north-west by Kelani-ganga containing in extent four acres two roods and thirty-nine perches (4A. 2R. 39P.), registered Colombo A 287/175.

No. 2
Plaint of the
Plaintiff
11-6-46
—continued.

2. An undivided half of all that allotment of land together with the buildings standing thereon called and known as Bloemendhal Stores comprising the several allotments of land called Walauwatta, Nugagahawatta, Nugagahawatte *alias* Ambagahawatta, Ambagahawatta bearing assessment Nos. 641 and 651, Bloemendhal Road and Nos. 510, 514 and 518 Alutmawatta Road within the Municipality and District of Colombo aforesaid bounded on the north-east by land bearing assessment No. 314 (1) premises bearing assessment No. 312 of Mallas Fernando, premises No. 307 of H. Peduru land of Juan Silva Stephen Silva, premises bearing assessment No. 316 of Juan Silva, land of Attanayaka J. Fernando, E. Dionis Antony and others, H. Paulis Silva and premises bearing assessment No. 14 C on the south-east by premises bearing assessment No. 14 C and Bloemendhal Road on the south-west by land belonging to the Crown and Mudaliyar John F. Perera and on the north-west by lot 1 in P. P. 20243 and Alutmawatta Road containing in extent five acres two roods and one point twenty-three perches (5A. 2R. 1.23P.), registered Colombo 20 A 253/159.

3. An undivided half ($\frac{1}{2}$) of all that allotment of land together with the buildings standing thereon called and known as Hill Land House bearing assessment No. 1487/249 situated at Madampitiya Road within the Municipality and District of Colombo aforesaid and bounded on the north by premises bearing assessment No. 1485/251 of Felix Candappa and premises bearing assessment No. 1486/250 of P. F. Gunasekere and Madampitiya Street on the east by Mutwal Police Station and premises bearing assessment No. 3232/90 of Walter de Zoysa on the south by premises bearing assessment No. 3640/72 of Migel Mendis premises bearing 80 assessment No. 13641/72 of Victor Silva, premises bearing assessment No. 3644/149 of Jacolis Mendis premises bearing assessment No. 3645/149 of Girigoris Thaber and premises bearing assessment No. 3547/147 of St. James' Church and on the west by premises bearing assessment No. 3649/144 of A. Catherine de Silva Gunasekere and premises bearing assessment No. 3650/147 of Alexander Mendis containing in extent one acre and twenty-eight perches (1A. 0R. 28P.), registered Colombo A 263/158.

4. An undivided half of all that allotment of land called Ambagahawatta together with the buildings standing thereon and known as Tea Stores formerly bearing assessment Nos. 1475/236, 1476/233, 1478/234 40 (1—3) and presently No. 1475/236 situated at Madampitiya Road within the Municipality and District of Colombo aforesaid and bounded on the north-east by premises bearing assessment No. 309 of the estate of the late Chapman Dias on the south-east by the Catholic Young Men's Association playground bearing assessment No. 1473/238 and premises bearing assessment No. 1474/237 of Joseph Dias on the south-west by Madampitiya Road and on the north-west by premises bearing assessment Nos. 1479/232,

No. 2
Plaint of the
Plaintiff
11-6-46
—continued.

1480/232 of P. E. Perera containing in extent three roods and two perches (0A. 3R. 2P.), registered Colombo A 263/156.

5. An undivided half of all that allotment of land together with the buildings standing thereon bearing assessment Nos. 96, 96A to 96F formerly bearing assessment No. 95 and 96 situated at Madampitiya aforesaid bounded on the north-east by premises bearing assessment No. 94 of H. A. de Silva on the south-west by Madampitiya Road and on the north-west by Lot F in P. P. 10413 containing in extent three roods and thirty-two point seventy-five perches (0A. 3R. 32.75P.), registered Colombo 289/255, A 263/157.

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6. An undivided half of all that allotment of land together with the buildings standing thereon called Kongahawatta, Timbirigahawatta and Siyambalagahawatta bearing assessment Nos. 6, 7 and 9 Modera Street aforesaid bounded on the north-east by the property of Wijemuni Jagarias Soysa on the south-east by Modera Street on the south-west by the properties of Deniadura Solona Silva and Conganige Santiago Antony now belonging to T. James Silva and the estate of Gasperu Soysa and on the north-west by the garden of Muthusamy and another containing in extent thirty-five and quarter perches (0A. 0R. 35¼P), registered Colombo A 263/154.

20

7. An undivided half of all that allotment of land together with the buildings standing thereon bearing assessment Nos. 318, 319 and 320 Modera Street aforesaid bounded on the north-east and south-east by the other portion of this land on the south-west by a portion of this land and on the north-west by the high road containing in extent twenty-one perches and seventy-eight upon one hundred perches (0A. 0R. 21.78/100P.), registered Colombo A 263/155.

(Sgd.) S. A. JAYASEKERA,
Proctor for Plaintiff.

No. 3
Answer of the
1st Defen-
dant
29-8-46

No. 3

30

Answer of the 1st Defendant.

IN THE DISTRICT COURT OF COLOMBO

BRIDGET ANTONY of "Whist Bungalow", Mutwal,
Colombo *Plaintiff*

No. 175/Z

Vs.

1. MARY IMELDA WIRASEKERA of St. Bridget's
Convent, Colombo
2. OLIVER GILES DE ZOYSA of Park Avenue, Borella,
Colombo *Defendants.*

On this 29th day of August, 1946.

The answer of the 1st defendant abovenamed appearing by Peter Daniel Anthonisz Mack, Proctor of the Honourable the Supreme Court of the Island of Ceylon practising as such under the name and style of "P. D. A. Mack & Sons" her Proctor states as follows :—

No. 8
Answer of
the
1st Defen-
dant
29-8-46
—continued.

1. This defendant admits the averments contained in paragraphs 1, 2 and 3 of the plaint save and except the averment that a cause of action has accrued to the plaintiff to sue this defendant.

2. This defendant denies all and singular the other averments contained in the plaint save such as are not inconsistent with the facts herein-after pleaded. This defendant further states that the plaint is prolix and that many of the said averments are irrelevant and substantially untrue to the knowledge of the plaintiff.

3. This defendant specially denies :

(a) that the Deed of Gift No. 602 dated 12th April, 1946, attested by J. A. V. Modder, Notary Public, was not the act and deed of the plaintiff ;

(b) that the execution by the plaintiff of the said Deed was obtained by pressure or surprise or through the exercise of undue influence or fraudulent representations or without being made aware of the contents thereof as alleged in paragraph 15 of the plaint.

4. This defendant pleads that the aforesaid Deed of Gift was duly executed by the plaintiff of her own free will and that the plaintiff is not entitled in law to claim a re-transfer of the properties conveyed there-under to this defendant.

5. This defendant pleads that this action has been instituted at the malicious instigation of one Simon Stock Antony who is not well disposed towards the defendants and who now dominates the will of the plaintiff.

Wherefore this defendant prays that the plaintiff's action may be dismissed with costs and for such other and further relief in the premises as to this Court shall seem meet.

(Sgd.) P. D. A. MACK & SONS,
Proctors for 1st Defendant.

No. 4.

Answer of the 2nd Defendant

IN THE DISTRICT COURT OF COLOMBO

BRIDGET ANTONY of "Whist Bungalow", Mutwal,
Colombo *Plaintiff*

No. 175/Z Vs.

1. MARY IMELDA WIRASEKERA of St. Bridget's
Convent, Colombo
2. OLIVER GILES DE ZOYSA of "Park Avenue",
Borella, Colombo *Defendants,*

No. 4
Answer of
the
2nd Defen-
dant
30-8-46

No. 4
 Answer of
 the
 2nd Defen-
 dant
 80-8-46
 —continued.

On this 30th August, 1946.

The answer of the 2nd defendant abovenamed appearing by M. N. M. Salahudeen, his Proctor, states as follows :—

1. This defendant admits the averments in paragraphs 1, 2 and 3 of the plaint save and except the averments that a cause of action has accrued to the plaintiff to sue this defendant.

2. The 2nd defendant denies the averments all and singular in paragraphs 4 to 10, 12 and 14 of the plaint as are material to or have a bearing upon the alleged cause of action pleaded in paragraph 15 of the plaint and further avers that the matters of evidence pleaded in those 10 paragraphs are irrelevant and call for no answer and have been instigated maliciously by Simon Stock Antony hereinafter mentioned.

3. This defendant denies the averments all and singular in paragraphs 9, 10, 15 and 17 of the plaint which state or tend to indicate that this defendant by pressure, surprise undue influence or fraudulent representation induced or prevailed upon the plaintiff to execute Deed No. 602 of the 12th of April, 1946, or that he asked the plaintiff to execute the said Deed or that any cause of action has arisen to the plaintiff to sue this defendant.

4. This defendant specifically denies in answer to paragraphs 10, 14 20 and 15 of the plaint that the plaintiff was unaware of the contents of Deed No. 602 of the 12th April, 1946, and avers that the said Deed was her free act and deed with full knowledge of what she was gifting on the said Deed and why she was so doing.

5. Answering paragraph 16 this defendant has no concern in the said properties or the value thereof.

6. Answering paragraph 17 this defendant further pleads that the plaint discloses no cause of action against him even if all the averments set out therein are true and that the plaintiff has no cause of action against her. 30

7. This defendant denies that the plaintiff would have instituted this action and avers that she has been forced and frightened into instituting this action by Simon Stock Antony her son who was not trusted by his late father and who now keeps the plaintiff a virtual prisoner at "Whist Bungalow" with a view to the acquisition of all her wealth.

Wherefore this defendant prays that the plaintiff's action as against him be dismissed with costs, and for such other and further relief as to this Court shall seem meet.

(Sgd.) M. N. M. SALAHUDEEN,
Proctor for 2nd Defendant, 40

Issues Framed

175/ZL

23-7-47.

ADV. HAYLEY, K.C., for plaintiff with ADVS. KURUKULASURIYA, SENEVIRATNE and DE ZOYSA instructed by MR. JAYASEKERA for plaintiff.

ADV. GRATIAEN, K.C., with ADV. HERAT for 1st defendant instructed by MR. JANSZ.

ADV. CYRIL E. S. PERERA with ADVS. KANDASAMY and DISSA-
10 NAYAKE instructed by MR. SALAHUDEEN for 2nd defendant.

Mr. Hayley opens his case and marks certified copy of the Deed No. 602, P1. He suggests the following issues :—

- (1) Did the 2nd defendant constitute himself friend and adviser of the plaintiff in 1945 and 1946 ?
 - (2) Did the 2nd defendant gain an ascendancy over the minds of the plaintiff and 1st defendant in the circumstances alleged in paragraphs 5, 6, and 7 of the plaint ?
 - (3) Was the Deed of Gift 602 (P1) signed by the plaintiff in the circumstances alleged in paragraphs 8, 9 and 10 of the plaint ?
 - 20 (4) Was Deed P1 obtained by pressure and surprise in the circumstances set out in the plaint ?
 - (5) Was Deed P1 obtained by undue influence or fraudulent representation in the circumstances set out in the plaint ?
 - (6) If issues 3, 4 and 5 or any of them are answered in the affirmative, should the Deed of Gift P1 be declared void or set aside ?
- Mr. Cyril E. S. Perera frames the following additional issues :—
- (7) Even if the averments in the plaint are established, do they disclose a cause of action against the 2nd defendant ?
 - 80 (8) Is the plaintiff kept a virtual prisoner at Whist Bungalow by her son Simon Stock Antony and has she been forced and frightened into instituting this action by the said Simon Stock Antony ?

I inform Mr. Cyril E. S. Perera that issue (8) does not seem to me to be relevant to this trial ; in view of that he withdraws issue (8).

Counsel have no objections to the issues framed. I accept all the issue (1) to (7).

 No. 6.
No. 6
Plaintiff's
Evidence

Plaintiff's Evidence

Mr. Hayley continues his address : Mr. C. S. Antony died in 1943 leaving an estate the net value of which is Rs. 242,000. Most of the
40 assets were landed properties ; there were mortgages on them, but the actual cash and personal property and movables come to a very large amount,

No. 6
Plaintiff's
Evidence
—continued.

During his lifetime he executed certain deeds. Mr. Hayley marks (P2) certified copy of the inventory in D. C. Case No. 10451/T. (Mr. Gratiaen has no objection to this document being marked but he says he does not accept the valuation as it has to be established by a party to the case). *

When C. S. Antony died he left as his heirs only his widow, one son, and one grand-daughter the 1st defendant in this case, Imelda Wirasekera who lived a long time with her grandmother the plaintiff and was with her during the period 1945-1946. He will put in deed executed by Mr. Antony and by plaintiff prior to the deed in question to show the nature 10 of the estate at the time the present deed was executed.

During his lifetime Mr. Antony executed Deed No. 143 of 24th February, 1939 (certified copy filed marked P3) gifting two lands to the plaintiff with a prohibition against alienation and *fidei commissum* to devolve on the 1st defendant and subject to restrictions. He executed Deed 144 (P4) of the 24-2-39 by which he gave five lands to the plaintiff with a prohibition against alienation. By Deed 145 of the same date (P5) he sold five lands to the plaintiff. By Deeds 165 and 166 of 26th June, 1939 (P6 and P7) he sold five properties to the plaintiff subject to mortgages to the extent of Rs. 145,000 to the State Mortgage Bank. Instalments had to 20 be paid regularly to the bank, and those particular properties the plaintiff by Deed 657 (P8) of the 28th February, 1946, gifted to her son S. S. Antony subject to the mortgage and with a prohibition against alienation, to devolve on his children. He puts in copies of mortgage bonds 702 and 745 marked P9 and P10 in favour of the State Mortgage Bank.

It will be seen that properties to the value of nearly Rs. 200,000 were subject to mortgage.

After the death of Mr. Antony, Mrs. Antony continued to live in Whist Bungalow with her son and grand-daughter. At this time the 2nd defendant Oliver Zoysa became a constant visitor to the house and he 30 was known during the lifetime of the late Mr. Antony. After his death, particularly in 1945, Mr. Oliver Zoysa used to come to the house and he later got his brother John Zoysa to propose a marriage between his son Amien and Imelda ; for the time being Mrs. Antony was not prepared to entertain this as the young man was still a student. Oliver Zoysa however continued his frequent visits and at one stage when Mrs. Antony was ill and laid up in bed he put himself forward as a friend. There was considerable ill-feeling and a small row as a result of Oliver Zoysa coming into the house. He seems to have continued his visits and made himself very friendly with young Imelda, until ultimately Imelda said she wanted 40 to go to St. Bridget's Convent.

One morning in April last Oliver Zoysa said he would come to fetch Imelda to take her to the Convent and her grandmother wanted to go with her. On a Sunday, after Church service, the parties went by car, and instead of going to St. Bridget's Convent went to Dr. Van Dort's house in Bambalapitiya ; Dr. Van Dort is connected with the 1st defendant in this way : 1st defendant is the daughter of C. S. Antony's daughter

Mary Margaret who married one Wirasekera ; when Mary Margaret died Wirasekera married again, and when Wirasekera died his second wife married Dr. Van Dort. Imelda was taken by Oliver Zoysa in his car to Van Dort's house. There plaintiff was told that she was to execute certain deeds. Plaintiff said she was not prepared to execute any deeds, she must have the advice of her brother. Then Oliver Zoysa said he would bring Fr. Bourgeois. Fr. Bourgeois was told Mrs. Antony wanted to see him, and instead of being taken to Whist Bungalow Fr. Bourgeois found he was being taken to Colombo. He expressed surprise but he was told
 10 Mrs. Antony was in Bambalapitiya. They did not go direct to Bambalapitiya but to Fort to Casie Chitty Building where two gentlemen were picked up whom the Father did not know ; they appeared to be Messrs. Mack and Modder, Proctors. They then went to Van Dort's house in Bambalapitiya. At Bambalapitiya he was told that he was brought there because Mrs. Antony wanted to execute a deed. Fr. Bourgeois said why should she do it at all unless she had proper advice. But in his presence she was forced to execute the deed and Fr. Bourgeois went outside ; Oliver Zoysa took him home. Mrs. Antony was left in the house with this deed which she was told was a deed of gift of certain properties to Imelda
 20 reserving the life-interest to herself. She never instructed any Proctor to draw this deed. As far as is known fees were paid by Oliver Zoysa. She was forced to sign this deed by all those who stood around her. She went away and subsequently she saw her Proctor Mr. Rasanathan who had attested all her previous deeds belonging to the estate, and asked him if he could find out what this deed was about ; Mr. Rasanathan went to the Registrar's Office and obtained a copy of the Deed No. 602 and found it made no reservation of her life-interest or her half share and even the Whist Bungalow in which she was living was alienated.

Of the first nine properties in the Inventory P2, Nos. 2 and 9 were
 30 sold during the testamentary proceedings in order to pay up the mortgages. Of the rest, Nos. 1, Bloemendhal Stores valued at Rs. 100,000 ; No. 3, Whist Bungalow in which she lived valued at Rs. 80,000 ; No. 4 valued at Rs. 50,000 ; No. 5 valued at Rs. 20,000 ; No. 6 valued at Rs. 15,000 ; No. 7, properties at Modera Street valued at Rs. 10,000 ; and other properties in the same Street valued at Rs. 7,500, make a total in the Inventory of Rs. 282,500, of which half is Rs. 141,250.

On another occasion Fr. Bourgeois had seen Imelda in the Convent and he found Oliver Zoysa there. There was no doubt that the girl was under the thumb of Oliver Zoysa who wanted to get her married to his
 40 son. On the 28th June they were married, invitations being sent out by Oliver Zoysa and not by the grandmother or her family.

Mr. Hayley draws attention of Court to the general aspects of the law on this subject. 2nd defendant says there is no cause of action against him. In a sense that is so, but as he is the prime mover there is authority to have him joined in a case of this kind and also asking him to pay the costs. On the general issues the position is very clearly put in the case reported in 36 Chancery Division page 145 and 56 Law Journal—Chancery,

No. 6
Plaintiff's
Evidence
—continued.

p. 1052. He refers to an extract in White & Tudor Cases, Vol. 1, 224, There are two classes, one of unfair and improper conduct over the person who executes the deed ; and the other of undue influence from the relationship of the parties, in which case there is no need to prove anything at all except the relationship. These two aspects may overlap. The other point is in regard to independent advice—not being told what the deed is. She is taken to a house which is not her own and there made to sign this deed of gift of all her share. The Court should be very thoroughly satisfied that it was a purely voluntary act of the plaintiff. Plaintiff is not in Court and Mr. Hayley proposes before calling plaintiff to call Fr. 10 Bourgeois.

E. A.
Bourgeois
Examination

E. A. BOURGEOIS sworn.

I am French by nationality and have been 15 years in Ceylon ; at present parish priest of St. James' Church since 1939. I know the family of the late Mr. Antony ; they were parishioners of mine at Mutwal. I know the plaintiff Mrs. Antony.

In 1946 I remember being taken in a car to the house of Dr. Van Dort at Bambalapitiya ; I think it was a Friday or Saturday—a Feast Day it was—in April, 1946. First Mr. Oliver Zoysa came and told me that Mrs. Antony wanted to speak to me ; it was about 11 a.m. Then I told Mr. 20 Zoysa that I had seen Mrs. Antony the previous day and told her all she should do, that I ought not to interfere with her material and domestic affairs. But I was told she wanted to speak to me. At first I did not like to go because I was very busy and because I had seen her the previous day and told her what she should do ; I did not think it was necessary for me to go. I went afterwards. At first I did not know that Mrs. Antony was in Dr. Van Dort's house ; I thought she was at Whist Bungalow. When I went down the steps I saw the driver facing Colombo, and I asked where I was going ; I was told Mrs. Antony was at Dr. Van Dort's. On the way we stopped at Fort and two gentlemen were 30 taken in to the car. I did not know them at all ; afterwards I came to know they were two Proctors. Having taken them in we went to Dr. Van Dort's house. (It is admitted that Proctor Modder and Proctor Mack were the two Proctors who went in the car). On the way to Dr. Van Dort's house Mr. Oliver Zoysa did not tell me exactly why I was wanted ; he told me Mrs. Antony wanted to see me. I smelt there was something about signing papers when I saw the two Proctors but I did not know exactly what was to take place. When I got there I saw Mrs. Antony, Dr. & Mrs. Van Dort, the two Proctors and Mr. Oliver Zoysa. When I got in Mrs. Antony told me that more than half of what belonged to her 40 and what belonged to the grand-daughter had been taken away by her son, and she was very excited and very worried. First she told me she was going to Court. I said it was better to settle the matter peacefully if it was true. A deed was produced by Mr. Oliver Zoysa which was a transfer of the old lady to her son Mr. Antony. I did not understand anything about the deed. By that deed, I was made to understand, more

than half had been taken by the son. She was under the impression that more than half had been taken by the son, and even what was Imelda's, and the old lady was upset about that. They were talking about signing another deed by the old lady but I did not see that deed. The old lady was afraid that the rest would also be taken away from her and she was there to do something to prevent that. She was very excited and did not know anything about the properties. She was questioned before me but she was not directly answering the questions. I could not find out anything from her exactly, at once she started to speak and I did not
 10 know whether she wanted me there or not. I do not remember what she or anyone told me that day, whether she was to sign any documents that day. She was to do something for her grand-daughter; the others were telling her that the best thing to do was to sign a deed, *i.e.* all of them who were there except the Proctors. She was under the impression that more than half was being taken away from her, and when she suggested to go to Court I told her it was better to settle that quietly even if it is true that the son had taken more than half and even if she wished to write anything for Imelda; I told her it was her lookout. I told her before signing any deed to consult her brothers. I told her that the previous
 20 day also; the brother was Mr. Gunasekera. I did not want to be there longer as it was not my own business. I was feeling uncomfortable because I thought the old lady was not in a state of mind to sign anything; there were arrangements being made to sign something. The others there were arranging things to make the old lady to sign a deed. I did not see any deed; I was told after that that a deed was to be prepared. Then I left in a car which was given to me.

No. 6
 Plaintiff's
 Evidence
 E. A.
 Bourgeois
 Examination
 —continued.

I knew this girl Imelda, I went to see her twice at St. Bridget's Convent about 2 months' ago. I went there in May this year because the old lady very often wanted me to try and make peace between them. I
 30 had been trying to do so as a minister of religion, to tell the grand-daughter the state of mind of the old lady when she signed the deed and to come to a settlement, and to tell her that a deed signed by an old lady in excitement, not knowing what was taking place and in such a state of mind, is not valid. I wanted Imelda in her conscience to realise that and wanted to convince her of that. Imelda was ready to come home and make peace; she had realised the position. She wanted to make peace with the grandmother and settle matters. I told Imelda you must sign these before Proctors and settle everything before Proctors. I went to see her again because she asked me to fix a date and come and take her
 40 home to make peace with her grandmother. I went there on a Sunday and Imelda wanted to come at that time. We wanted to get permission of the Mother Superior. Then the Mother Superior came. After that Oliver Zoysa also came and said he did not want the girl to go home. I told Imelda there is no question of signing a deed but it was merely to make peace and she would be brought back to the Convent if she wanted to come back and nothing would be done unless Proctors were there. After that the girl refused to come with me.

No. 6
Plaintiff's
Evidence
E. A.
Bourgeois
Cross-exami-
nation

Cross-examined by Mr. Gratiaen.

I knew the Antony family quite well before the old gentleman died. I also knew Mr. de Soysa for many years. I cannot say Mr. de Zoysa and the old gentleman were very good friends ; I never met them in the same house ; I went very seldom to that house ; I had never any knowledge that they were friendly. Mr. de Zoysa was a member of my parish ; I know him very well ; I can say nothing against him. This girl Imelda was brought up by her grandmother as her own child ; she was devoted to Imelda and Imelda to her. During Mr. Antony's illness I could see Imelda was devoted to the grandparents.

10

In regard to the attitude to their son Stock, I heard once the old gentleman telling me that the young man was always questioning him in regard to the properties. Up to the death of Mr. C. S. Antony I went there just once ; so I had very little opportunity of getting an impression one way or the other ; I also went once for ministration just before Mr. Antony's death. After Mr. Antony died Stock went and lived with his mother. At the time of evacuation he went to Gampaha and before the father died he came there to reside, because three months before that I went there, the old man having called me ; the son was there then and I believe he was reciting prayers that night. After Mr. Antony's death I don't know whether the son took over all the affairs of the father.

The day I was taken to Van Dort's house may be the 12th April, 1946 ; when Mr. de Zoysa told me that the old lady wanted to see me the first thing I told him was that I had already told her what she should do on the previous day, or very soon before that. I was referring to a conversation I had with the old lady at her bungalow when there was no one else present. She was very much upset about her son's conduct in some matter. The son told me there that he was in charge of the business and the mother refused to sign papers even in connection with the business because there were other people interfering in their affairs and he precisely mentioned Mr. Oliver Zoysa and Mr. Van Dort. I went to speak to the mother after that and told her that if she did not understand anything as to what to sign she might consult her brothers before signing. She never told me she refused to sign any deed. She told me she had been warned that her son had taken away very large properties ; she was under that impression ; she said people told her that she had signed away valuable things belonging to her and she did not know what she had signed. She had been told that she had signed documents she should not have signed. She did not know what was in those documents. She did not ask me anything. After speaking to the son I went to the mother and told her " if you are afraid to sign documents without proper knowledge of everything then you better consult your brother and not outsiders ". I told her I would not do such a thing.

The old lady did not say at first when I met her that she had made a gift to her son, nor did I ask her. The next day she told me at Van Dort's house that more than half of her property had been taken away by her

son and that she had come to know that. She did not say she was glad about it ; she was worried about it because she had been told that she had signed this way and that way. She was worried that what she was told she had done, was true. She was frightened that things might be given to her and asked to sign other things. She said everything had been taken away and she wanted to give something for the grandchild.

No. 6
Plaintiff's
Evidence
E. A.
Bourgeois
Cross-
Examination
—continued.

Q. Did she not tell you she was anxious to make some provision for her grand-daughter before she was forced to sign it away to someone else?

A. No, she did not say anything like that ; she was under the impression that almost everything had been taken away from her by the son, even things belonging to the grand-daughter had been taken away, so that there may not be anything belonging to her. She wanted to make some provision for Imelda. She was afraid she would lose everything.

Q. Did you think it was a good thing that she should make some provision for her grandchild ? A. I told her, what belongs to you is yours and you can dispose of it as you like ; but before you do that consult your own brothers. I told her she should realise what she did before she did it.

Q. In your presence, at Van Dort's, did anybody try to make her do something which she said she did not want to do ? A. It was precisely told, that she should do something for the grandchild. She was questioning " Is this property mine " or " Is this not mine " ; she did not know what property had been left to her. She wanted to do something for the grand-daughter.

Q. The chief idea in her mind that day at Van Dort's house was to do something for the grandchild ? A. I don't know exactly what was in her mind because she was always wavering what she was to do.

Q. Did she, while wavering, express any desire to do anything ?

A. She did not say anything to that effect ; she did not say she was going to sign or not.

Q. Did you get the impression from what you were told before this day that Imelda was unhappy at Whist Bungalow after Stock Antony had come to stay there ? A. I had no complaint ; the day she went away she said she was afraid to remain there because Mr. Antony was scolding her ; before that there was never any complaint ; the grandmother told me the grandchild was afraid to remain there. I said she need not be afraid and asked her to go back. Mrs. Antony was not frightened for the grand-daughter.

In May this year as a friend I was anxious to bring about a settlement, but only as a friend. Even today the grandmother loves the grandchild and *vice versa*. The grand-daughter married the other day ; I don't know very much about it. I had not seen the young man for about 8 years ; I have nothing against him. Mrs. Antony did not want that marriage and she said he was too young and he had not passed his examination. She told me she had never given her consent to that marriage ; she married after she became 21. Mrs. Antony did not speak to me about a press notice.

No. 6
Plaintiff's
Evidence
E. A.
Bourgeois
Cross-
Examination
—continued.

At Van Dort's house they told me in Mrs. Antony's presence that the deed of transfer in favour of Mr. Antony had been registered ; but Mrs. Antony did not understand ; I don't know whether she was excited because she was not sure whether she had done that or not. I did not want to take part because I did not know enough about the properties ; so I left the place.

Cross-examined by Mr. C. E. S. Perera.

The day Imelda was leaving to go to Van Dort's the grandmother told me Imelda was afraid to live in the house ; I don't know whether even earlier she was not at Whist Bungalow but at Dr. Van Dort's. 10

(Sgd.) N. SINNETAMBY,
A. D. J.

Mrs. BRIDGET ANTONY sworn. About 70. Whist Bungalow,
Modera.

Mrs. Bridget
Antony
Examination

I am the widow of the late C. S. Antony. My husband left a good deal of property ; after I married him he acquired a lot of property. After he died the administrator of the estate was my son Stock Antony. From the time my son got married he had been staying with us. My grand-daughter, my son, the late Mr. Antony were all living together. The grand-daughter was with me from the time of her birth ; she is my daughter's 20 daughter ; I had only two children, my son and my daughter Mary Margaret. Mary Margaret died 4 days after 1st defendant was born, and we adopted our grand-daughter. The son-in-law Mr. Wirasekera is also dead now.

When my husband was alive Oliver Zoysa lived in the adjoining house and I knew him. I did not see him frequently at that time. I know at one time he was living next door. When my husband was alive Oliver Zoysa did not visit us. After he died Oliver Zoysa came and proposed a marriage between his son and my grand-daughter, Imelda and when I was ill Oliver Zoysa came very often to see me. Once he came with his elder brother John by car ; Oliver Zoysa stayed out and John 30 came and spoke to me about a marriage. I did not agree to his proposal because both were of the same age and the proposed bridegroom had no employment ; he was only a medical student. I said I was prepared to give my grand-daughter in marriage to a suitable person but not the party proposed. After I said I did not agree Oliver Zoysa visited my house often and when I fell ill offered me nurses and help but I did not very much like his coming. I fell ill about 18 months ago, January before last. For about a month I was ill, and during this time and after that also Oliver Zoysa used to come to my house ; I cannot remember how often he came ; I knew it was for the purpose of the proposed marriage and I 40 asked John Zoysa also why this girl should be given in marriage to the proposed man who had no job. Off and on Oliver Zoysa came after I recovered. I did not ask him why he came because I knew why. When he came there he used to speak to my grand-daughter. I personally did

not take any action to prevent his coming. There was a watcher at our gate. About this time my son did not go anywhere, but only during the raids he evacuated ; when he was away visiting his properties Oliver Zoysa had come there and my son had shown his disapproval of his visits and informed the 1st defendant not to allow him to come there. Oliver Zoysa did not tell me anything about my gifting property to my son. How does he know anything about it? About this time in 1946, or end of 1945 there was no talk of Imelda's going out anywhere; she was worried about my illness. The doctors who saw Imelda advised me to send her some-
 10 where for a change and I inquired from some convent whether they could accept her for some time ; I was told the convent was full. She was displeased with her uncle at home and I took her once with the idea of putting her in a convent ; I could not leave her there because of the Easter vacation and her clothes were with her stepmother, the second wife of her father Wirasekera, now Mrs. Van Dort, her name is Violette. I remember the first day I went with Imelda to the Van Dort's ; that was with the idea of putting Imelda in the convent ; that day we went by car after Mass. When we came out after Mass Imelda said " Here is a car, let us go ". Only the driver, myself and 1st defendant were in the car.
 20 I did not know who the driver was ; I asked the driver to go to Van Dort's house because the child's clothes were there ; the clothes had been kept there earlier ; we went there to remove the clothes and go to the convent ; we got there and were told that the holidays were on and I could bring the 1st defendant when school had resumed. When we were at Van Dort's —must be at Bambalapitiya—I saw Oliver Zoysa there. Oliver Zoysa wanted me to sign some documents saying my son had been taking a lot of property; more than 7 lakhs. I said I was not concerned about lakhs. I did not know what that meant and I was not prepared to sign anything. There were two other gentlemen who came there with Oliver Zoysa, and
 30 they persuaded me to sign it. I was very much worried and did not know what to do. Fr. Bourjois also came there ; I don't know why the Father came ; I did not send word to him to come, but when he came I appealed to him and the Father told me to settle these disputes with the advice of my brothers. I was not aware that there would be signing of deeds. I did not know there would be such dishonest lawyers who would execute such deeds. I signed some papers because I was being harassed and I was not explained what and what properties they were about. I did not know what I signed or what the contents were. That is not the way how deeds were executed before ; I should know what I am signing.
 40 My deeds were at home. I can see only with one eye and I could not see exactly who else were there other than the three I mentioned. Before I signed it I did not know anything about it. I only went there to take my child to the convent. If I wanted to sign deeds I could have done that in my own house. Towards evening I went home and from the time I returned I was contemplating what had been done. Imelda remained with the Van Dort's ; I called her but she did not like to come ; after I went home I was worried as to what had happened to me and I sent for my Proctor Mr. Rasanathan who was attending to our work even during

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 Evidence
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 Examination
 —continued.

No. 6
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Examination
—continued.

the lifetime of my husband ; I was informed he had gone to India ; after he came back he saw me and I informed him what happened. Two or 3 days later the Proctor informed me that I had transferred all my properties away. Mr. Jayasekera also attended to our work with Mr. Rasanathan. I do not know who paid for the deeds in question. No one asked me for money. I do not know whether I signed any deed or not, I only signed some papers ; I did not pay anything towards those expenses. I have a bank account where I deposit all the rents. If I wanted a deed drawn I had enough money to pay for it. After I went home I called Imelda several times to come back to me because the others had induced 10 her ; they had done something to her. I went to Van Dort's and called her ; she did not like to come to my house ; I persuaded her and spoke to her a little harshly but she did not like to come. I went on one or two occasions to the convent also ; she had gone from Van Dort's house to the convent ; when she was at Van Dort's house Oliver Zoysa along with my brother's daughter took her to the convent. I never consented to the marriage of Imelda with Oliver's son. I know they are married now and I sent a notice to the papers saying it was not with my consent.

Mrs. Bridget
Antony
Cross-exami-
nation

Cross-examined by Mr. Gratiaen.

As soon as Fr. Bourgeois came to Van Dort's house I complained to 20 him that I was told that my son had got transferred in his name about 7 lakhs' worth of property and that they wanted me to transfer the balance property in my grand-daughter's name. I cannot remember whether I complained to the priest against the Proctors in Van Dort's house. The priest went away. I did not make any complaint against my son to the priest. I did not say I was afraid that my son would get the remaining properties also transferred in his name. I did not say that to the priest. My son would not do such a thing. My properties I had gladly given to my son. I do not remember telling the priest that more than half had been written in my son's favour. I had transferred my properties to my 30 son and his heirs under a *fidei commissum* subject to the mortgages and payment of the debts. I was aware of that fact when the Father came. I did not tell the priest or anyone else at Van Dort's house that day that I was very anxious to transfer some of the remaining properties to my grand-daughter. I did not say that because the balance of the estate would be divided later.

Adjourned for lunch.

(Sgd.) N. SINNETAMBY,
A. D. J.

After lunch.

BRIDGET ANTONY sworn. Recalled. (XXN. contd.):

Q. Do you suggest that your grand-daughter Imelda did anything wrong in connection with the circumstances in which you signed the deed on the 12th April, 1946? A. I cannot say that ; she was there with the others ; she did not persuade me to sign these documents.

Q. Were you not on that day very anxious to make some provision for your grand-daughter by transferring some of your properties? I had no such idea; if I did it at all, it would have been on her getting married, when I would have gifted her some property.

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Evidence
Mrs. Bridget
Antony
Cross-
Examination
—continued.

Q. Did anyone tell you that the documents you signed were in favour of your grand-daughter? A. It was not explained to me in that way.

(To Court: Q. Did the Proctors tell you anything? A. They told me only to sign the documents but not anything else.

10 Q. You had no idea then that you were signing away property at all in favour of somebody? A. I did not know any such thing; I only came there; they must have got this done for their own benefit.)

Q. Did you ask what they wanted you to sign? A. I did not; they should have explained to me what I was signing.

Q. Did Mr. Oliver Zoysa explain to you what the document contained which you were asked to sign? A. They did not particularly tell me to what property it related; they only asked me to sign; I cannot say if they told me it was a transfer of property and whether they specified details.

20 Q. Did you ask that the document was in fact a transfer of property to someone? A. I thought I was transferring that portion of my husband's estate which did not belong to me; that is apart from my half share I was transferring the other half share of my husband's estate; that is what I thought I ought to do; but that is not the way the deeds have been actually transferred.

Q. You knew at that date you had inherited an undivided half share of your husband's property when he died; did you on that day intend to convey any part of your share to your grand-daughter? A. I considered that only that portion which my grand-daughter should have inherited was being transferred in her name.

30 Q. Did anyone tell you that you were going to transfer some portion of your own share to your grand-daughter? A. No one told me that any portion of my share was being transferred in her name.

Q. No one told you this was a transfer of your own property and at the same time no one forced you to sign that document? A. Because they forced me to sign it I did so; it was unavoidable; I was afraid because I was all alone and there were four or five others of their party. They did not threaten me with any injury.

40 Q. Did they tell you anything then which you have now discovered to be false? A. I was only asked to sign something but was not told what it was nor explained.

Q. So they did not tell you anything which you now know to be false? A. I was forced to sign and I signed. I cannot say now what else they told me or did not tell me.

(To Court: Q. What do you mean by "force"? A. They did not threaten me, but all of them asked me to sign; they said it was only

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—continued.

worth Rs. 1½ lakhs and nothing would come of it, and I signed; they said there was only a balance of Rs. 1½ lakhs and asked me to transfer it. Because they forced me I signed it, but now I discover that it is my own property that I have signed away.)

Q Were you willing to transfer that day Rs. 1½ lakhs worth of property to your grand-daughter? *A* I was not willing.

Q. Did you sign it at that time because you thought it was a transfer of only Rs. 1½ lakhs? *A*. Because I was worried and harassed by these people I had to sign it.

Q. Did you complain to Fr. Bourjois that you were being harassed by these people? *A*. The priest was there; he said “you are not aware of it, I am not aware of it, you take the advice of your brother” and he went away.

Q. Why did you not refuse to sign without consulting your brothers? *A*. Because of the worry that was given to me I had to sign it.

Q. Fr. Bourjois said that you were that day anxious to make some provision for your grand-daughter; is that true or not? *A*. On the day I had to transfer any property to her I would have been willing to do so, if she had got married to one whom I liked; I would have willingly done so in that case.

20

Q. Did you tell the priest that you had a fear that if you did not sign this in your grand-daughter's favour that day your son would take away the whole thing? *A*. No.

Q. Did you tell Fr. Bourjois that you intended bringing a case against your son? *A*. Why should I; those were things I had given to him of my own accord. No one asked me to bring an action against my son; there was no need for it. There were certain deeds with my son subject to *fidei commissum*. I had 7 children.

Q. In 1939 your husband transferred certain properties to you by P3 and P4? *A*. Those were the properties I had transferred to my son. My husband transferred those properties to me in 1939. In spite of those transfers my husband continued to enjoy the income of those properties in his life time. Those properties were an office in the Pettah and some boutiques, and some property at Mattakkuliya the value of which I do not know. I do not know the income of these properties exactly; the clerks will know. I cannot say exactly how much I received. Before my husband died he asked my son to collect the income of those properties; the money is deposited in my account in the bank. I know that this money is put into the bank by my son; I cannot say how much; I must ask my son about it; I have no idea even of the approximate amount.

In February, 1946, I transferred those properties to my son subject to the payment of debts. I sent for the Proctor, Mr. Rasanathan and told him these properties should go to my son and his heirs so that he may settle my husband's debts and also subject to my life-interest and

to the *fidei commissum*. All the transfers have been in that manner. Even property transferred by my husband to his grand-daughter was subject to my life-interest.

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Evidence
Mrs. Bridget
Antony
Cross-
Examination
—continued.

Q. Your proctor got your signature on the 28th February, 1946, and told you he had transferred reserving the life-interest to yourself? A. Yes.

(Shown P8). The signature here must be mine.

Q. Can you explain how it does not reserve your life-interest? A. If it is not subject to my life-interest it must be subject to the *fidei commissum*.

Q. Did he tell you it was subject to a life-interest? A. That is what he told me; my son was aware of it. I did not tell my son to give instructions to the Proctor.

The income of these properties is deposited in the bank up to date. I have not got my bank account here; I can make arrangements to show it; I must speak to my son and bring it because I do not know details of it.

There are some properties which are still in my name from which I am entitled to the income and I send the income to the bank. They give me an income sufficient for my requirements.

20 Q. The day before you went to Van Dort's house did Fr. Bourgeois visit you in your house at Whist Bungalow? A. The priest used to come now and then; I cannot say when. I cannot remember asking the priest to come and see me in connection with documents which my son asked me to sign. I cannot remember refusing to sign any documents which my son asked me to sign.

Q. Is it your position that whenever your son put before you a document in 1946 you signed it because you trusted him. A. Yes, those days I used to sign; there was never any disagreement about it. I trust my son because he does not gamble, does not drink; but he has a slight temper; he did not lose his temper with anyone in particular, but it might be anybody in the home; but that would end there. We have been living always together.

Q. Is it a fact that you took away Imelda because your son scolded her? A. That is why I wanted to take her to the convent. There was no such serious incident in which he should have apologized after he lost his temper.

Q. But why then did you want to take her to the convent? A. She did not like to stay there, but I don't know why.

Q. Did Fr. Bourgeois advise you not to sign any documents without consulting your brother? A. The Father had told me that but there were times when I forgot these advices.

Q. Was there any discussion with Fr. Bourgeois because of your refusal to sign documents which your son had asked you to sign? A. I cannot remember. In connection with the business he asked me to sign some documents and I refused to sign; I was told it was about the business; I refused to sign because I could not understand what it was about,

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Evidence
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Cross-
Examination
—continued.

Q. But you trusted him ; why did you not ask him to explain it to you ? A. He asked me to sign and I refused ; there was no need to ask him to explain it.

Q. Was it not why you sent for the priest ? A. He had got displeased with me over something or other and had got down the priest. I cannot say whether my son complained to the Father.

Q. Do you deny that you were once asked by your son to sign a document transferring further properties to him and you refused to do so ? A. I cannot remember any such request ; my son never asked me to transfer any other properties. 10

Q. Did he not once ask you to sign a document and when you refused he forced you into his room ? A. It is all false.

In February, 1946, the Van Dort's and I were very friendly and it is because of these matters that we have fallen out.

Q. You were glad to see at that time that your grand-daughter and her stepmother were getting on so well ? A. Yes.

Mrs. Van Dort is not one of my relatives and I did not consult her at all whenever anything troubled me. There was nothing that happened to me to consult and get the advice of anyone.

I did not tell Dr. Van Dort or his wife about this time that I was 20 afraid my son might get all the properties transferred in his favour to the exclusion of my grand-daughter.

Q. You swear that you were not worried about your son's conduct at this time ? A. I had no difficulty with my son ; he did not drink.

I did not tell Dr. Van Dort that I had asked the Proctor to examine what the documents written in my son's favour were.

Q. Did Imelda's mother leave any jewellery in the safe ? A. There were jewellery and it had been removed by the 1st defendant along with the box. She wanted them for her own use and took them away ; I did not consent to her removing them ; I told her there was some of my 30 jewellery also, but she had taken it away on the advice given her by some others ; there were in it 2 necklaces, 2 bracelets and a brooch belonging to me and which were of no use to her. I was not against her removing her jewellery but she should have left my own jewellery.

Q. Two weeks after the deed was signed at Van Dort's the jewellery was removed ? A. No, it was before that.

Q. Is it not a fact that you and your grand-daughter were worried that your son would take those jewels away ? A. I was not afraid, but I don't know if she had any such fears. She did not tell me those fears. It is true that Mr. Collin Wijesuriya came there and it was on 40 that day that the jewellery was removed ; Imelda did not tell me that Mr. Wijesuriya would come.

Q. The jewellery was removed after the deed was signed at Van Dort's house ? A. After that she did not come there ; how could she

then take the jewellery away. When she was at Van Dort's place she used to visit me. She was staying at Van Dort's house even before the deeds were signed ; as there was no room in the convent she came back there. When she went earlier she took the jewels away. Up to April, 1946, Imelda and I were fond of each other because she was the only one I had as my daughter ; at that time she was dutiful ; it is only now that she has changed because of others' influence.

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—continued.

The Zoysa family belongs to the same community as myself. If Oliver Zoysa's son had passed out I would have put through the marriage if Imelda had not got married in the meantime. Oliver Zoysa is related to Sir Ernest de Silva. In 1934 my husband, Imelda, myself, the Van Dort's and Oliver Zoysa went to Europe ; we travelled by the same steamer, but we went on our own and the others on their own ; at that time Imelda was only 8 years old and we took her along with us. There were about 400 passengers in the steamer and we all went together. We are all people of the same place and known to one another, but Oliver Zoysa was not a companion of my husband's when he was living. We used to meet them at certain places at certain times on our trip and there were times when we did not. We also stayed in the same hotel but in different flats.

I am angry with Oliver Zoysa because he acted in an improper manner. I cannot speak of any friendship that existed between us ; they were of the same place and were neighbours at one time. We knew each other.

Q. Do you remember that after the deed was signed at Van Dort's you expressed a wish to see Zoysa's son? *A.* I did not ; on one occasion he had come to Van Dort's house ; I never expressed a wish to see him. That was much earlier, before the deed was signed ; never after the deed was signed.

Q. Did you not give him a ring on that occasion? *A.* That was a ring that was worn by the 1st defendant, a diamond ring which was at home which she was wearing.

(Shown a ring). Was it not one of your rings that you gave Imelda to be given to the young Zoysa? *A.* This was a ring which was at home belonging to me.

I cannot read or write English. In regard to the notice in the papers about Imelda's marriage, I went to the Daily News office and told them that I wanted it put, that I wanted a notice to appear that my granddaughter had married against my wishes. I did not sign any document setting out the notice. I went to the Daily News office ; I cannot remember whether I signed anything but I went there. I only went to one office.

(To Court : I went with my younger brother.)

Q. Did you give instructions to your Proctor about this case, or your son? *A.* I gave instructions with the assistance of my brother.

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—continued.

My son did not take an active part in this case. I am spending for this case and I have got money for it in the bank.

(Sgd.) N. SINNETAMBY,
A. D. J.

Adjourned for 20, 21 and 22 October, 1947.

175/ZL.

21-10-47.

Appearances as on previous date.

Errors in previous proceedings corrected by consent.

BRIDGET ANTONY (recalled). (Sworn.)

(It is agreed at this stage that the witness be cross-examined by Mr. 10 Cyril Perera who appears for the 2nd defendant, and that Mr. Gratiaen, who is at the moment engaged in another Court, be permitted to continue his cross-examination of the witness at a later stage. Counsel for the plaintiff and 1st defendant have no objection.)

(To Mr. Cyril Perera) :

Hugh Weerasekera, my late son-in-law, after his second marriage, lived in Mutwal but I cannot say how long. I cannot say if he lived there for over ten or fifteen years. During that time he and his wife were living in a house on Madampitiya Road, belonging to my late husband. I cannot say in yards or feet the distance from the Whist Bungalow, in 20 which I was living, to the bungalow in which Hugh Weerasekera lived. I have not gone and measured that distance.

(To Court : It is not very far off ; nor is it very close by.)

It will not take very long for one to go from the Whist Bungalow to that house. From the gate of the Whist Bungalow one will take less than fifteen minutes to go to that house.

Before the war my husband's office was in Fort and Hugh Weerasekera was working in that office. After the war began my husband's office was transferred to the Whist Bungalow.

Q. When the office was transferred to the Whist Bungalow did Hugh 30 Weerasekera continue to work in this office ? A. No. He took charge of some other work in another company.

During the time the office of my husband was in Fort one Mr. Menon was looking after the whole business. This Menon was then living in a house behind the Whist Bungalow, within the same compound. At the time of the transfer of my husband's office from Fort to Whist Bungalow Mr. Menon was looking after the business.

Q. When your husband fell ill was Menon still looking after his business ? A. No. As soon as the war began he went away to India. 40 Till he went to India he was looking after my husband's business.

Hugh Weerasekera was looking after the insurance work. Hugh formed the Ceylon Insurance Company in 1939 and went there. That is

not connected with my husband's office. He left our office altogether. When he left Mr. Menon was looking after the insurance work of my husband. In fact, Mr. Menon was in charge of the full office, not only the insurance branch. He was the manager of the whole office. Some time after the Japanese entered the war Mr. Menon left for India.

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—continued.

When the Japanese entered the war my son Stock Antony evacuated to Gampaha, with his wife and children. I cannot say how long he remained in Gampaha. At the time Mr. Menon left for India my husband was getting slightly ill. Though his illness became serious in 1943 and 10 was confined to his bed, he was yet able to go about in the house. For that illness a doctor was treating him for about six months. During all that time my husband was himself attending to his tea business. Even after the Government took over the tea my husband used to get some of the purchases at that time, and he attended to that work from his sick bed. His clerks used to come to him and get instructions from him. When Mr. Menon left for India my husband was looking after his business, with the assistance of his clerks and he continued in this manner till the time of his death.

During the illness of my husband there were attendants kept to 20 attend on him. Even when he was serious these attendants were attending on him. During that time my grand-daughter, Imelda, was at home. In fact, she was in my house from her very infancy. There was no necessity for Imelda or me or anyone else to attend on my husband during his illness, or give him his mixtures, because there were attendants kept for that purpose.

When Imelda's father, Hugh Weerasekera, was living near the bo-tree junction with his second wife Imelda never went to stay there. She used to go there once in a way, but come back that same day. I deny that she went and stayed there at any time, for one or two months.

30 For some days my husband was unable to get up from his bed. In his room there was an iron safe with a combination lock. My husband used to open that safe. I do not know whether, any person other than my husband and Imelda used to open that safe. I think my husband had taught Imelda how to open that safe. In fact there are two safes in that room. During my husband's lifetime I did not open his safe. That is the larger safe; the other one is smaller. I do not know whether Imelda ever opened the larger safe during the lifetime of my husband; nor can I say whether the only person other than my husband who could open that safe was Imelda. It was when my husband was seriously ill that 40 he showed her how to open his safe. She might have opened it for him when she happened to be close by. But I had not seen her opening it.

(To Court : One day I saw my husband showing Imelda how to open that safe; but I have no idea whether she opened it or not then. My husband even showed me how to open it, but I never opened it. I have never seen her opening it. I only saw my husband showing her how to open it.)

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—continued.

All my husband's valuables, all his deeds and all his commercial documents were kept in that safe. My jewellery was not kept in that safe. They were kept in the smaller safe. I did have very valuable jewellery. A single piece of my jewellery was worth over 200 pounds (Rs. 2,000). My jewellery was in my safe, that is the smaller safe, and some were kept in the almirah also. None of my jewellery was kept in the larger safe. I gave very valuable jewellery to my daughter, and after her death I kept it preserved to be given to Imelda, her daughter, afterwards. I cannot say the value of the jewellery that I gave to my daughter. After my daughter's death all her jewellery were kept in my safe, that is the smaller safe. We were not in the habit of keeping jewellery of any type in my husband's safe. I have no recollection of having kept any jewellery in that safe at any time. During my husband's illness necessity arose for his safe to be opened, but not always. I cannot say whether on such occasions Imelda was summoned to open the safe. I do not know whether she was asked to open it even once in a way. I used to go to my husband's room when he was ill. There is a corridor like passage between my room and my husband's room. Imelda was in my room. If Imelda goes out from my room to my husband's room I should see it.

About two weeks prior to my husband's death my son Stock Antony was got down to the Whist Bungalow. We got him down because my husband's illness was daily getting serious.

Q. After your husband's death it was only Imelda who had the permission to open his safe? **A.** No one else knew how to open it.

After the death of my husband she might have been called up to open the safe; I do not know.

At the time the safe was open, after his death, my son Stock Antony, a Proctor and several others were there. I was also there. But I do not know who opened the safe.

(To Court: It may have been opened either by her or by my son, Stock Antony. Stock also knew how to open that safe.)

Q. Did you not say a little while ago that the only person other than your husband who could open the safe was Imelda? **A.** My son Stock also knew how to open it. I do not know whether he was also shown how to open it.

(To Court: Prior to my husband's death I did not see my son opening it. But now it is opened by him.)

I cannot say whether it was Imelda who showed my son how to open it.

It was Imelda who told me that there was a "lucky" silver rupee in the almirah. When we were going through it I saw it. It was there in the almirah. I do not know from where she took it, whether it was from the safe.

(To Court: I did not see Imelda taking that silver rupee out from the safe. On the occasion on which the safe was open in the presence of four or five persons, it must be Imelda who opened it. I was not watching

it being opened. My son Stock was there at the time, and there were several others also. It may be Stock who opened it with the help of others.)

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—continued.

It was only after my husband's death that I saw my son Stock opening the safe.

Q. Do you still deny that it was Imelda who showed your son Stock how to open the safe? *A.* Imelda might have shown my son how to open it. I do not know.

After my husband's death my son took over the control of his affairs in the house. He attended to all my affairs. Eight or ten days after my husband's death my son applied for letters of administration. Before he died my husband gave instructions to my son as to what and what should be done. I was quite pleased with my son. I had no ill-feeling against him. My husband died in May, 1943. This is 1947, and during the last four years my son and his family have been living in my bungalow. Even ten families can be accommodated in my bungalow.

Q. But you cannot get any of your brothers to come and live in your bungalow though, as you say, ten families can live there *A.* They have their own houses and they live there.

20 (To Court : My brother's houses are situated close by to the Whist Bungalow.)

I have handed all my affairs to my son and he is attending to everything. He knows everything.

Q. After your husband's death, whenever you find any difficulty in anything, do you consult your son? *A.* In regard to anything legal I consult my Proctor. Otherwise I consult my son.

Q. Did you at any time consult Oliver Zoysa in case of a difficulty? *A.* I have nothing to consult him about. I have nothing to do with him.

30 During my husband's lifetime Oliver Zoysa did not come to give me any advice. So after my husband's death I did not find it necessary to get his advice. He gave me no advice, and I did not consult him on anything. Jeramius Gunasekera and P. F. Gunasekera are my brothers and I could have consulted them instead of Oliver Zoysa in case of difficulty.

After my husband's death Oliver Zoysa used to come to my house, but I cannot say the number of times he came. Once I fell ill and during that time he came more frequently, almost daily. At other times he used to come about once or twice a week. One day he came with a proposal for Imelda. During that time he used to come frequently.

40 *Q.* Was it during the time when Imelda was just reaching 21 years of age? *A.* A little time prior to that.

He came with that proposal before I fell ill. I fell ill in January, 1946. I cannot say how many months prior to my illness that Oliver Zoysa brought that proposal. I think it may be about a month prior to

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my illness. In reply, I told Oliver Zoysa that Imelda was still attending school and that I could not agree to her being given in marriage to a boy of her same age. Thereafter, when I fell ill Oliver Zoysa came to see me, and during my illness he came more frequently than before. When he kept on coming like that I told him "What is the meaning of your coming like this too often? What marriage for a man who has no job?" I said this when he continued to come even after I rejected his proposal. He came even after that, but did not discuss about the proposal. He simply came. It may have been to win over my mind that he continued to come even after I rejected his proposal. As I disagreed with the proposal,¹⁰ whenever he came after that, I kept quiet and did not discuss about it. He used to come and talk to the child, Imelda. I also used to go and speak a word or two with him and did not have a long conversation with him. To me he only spoke a word or two. He then goes away. Later he kept away from coming. I was told that the gate-keeper had been instructed not to allow him to come in. I did not instruct the gate-keeper to stop him from coming in. I do not know whether it was my son Stock who gave such instructions to the gate-keeper.

Q. About the time of your illness Imelda and your son Stock were not on good terms? A. Yes, that is because when I was ill Oliver²⁰ Zoysa had been telephoning frequently to my grand-daughter Imelda, and my son Stock had been reproaching her for using the telephone.

Over that my son and Imelda did not fall out with each other, but in consequence Imelda was not well disposed with my son.

(To Court : My son had been reproaching her for that about twice. From that time onwards she started to be disobedient. I do not know on whose instigation that she behaved like that.)

My son occasionally loses his temper, but soon thereafter he cools down. I discovered that Imelda was unhappy in that house ; it was the result of Oliver Zoysa coming there and speaking to her. I cannot say³⁰ whether it was because Stock Antony's attitude towards her that she was not willing to live in my house. She never told me by word of mouth that because of her uncle Stock she was not willing to stay there ; but from her behaviour I found that she did not like to stay there. During this time I did not arrange for her to go and stay with her stepmother, Mrs. Van Dort ; but when she went there she decided to remain there till she join the convent. During the month of February, 1946, shortly after my illness, she stayed in her stepmother's place ; but she did not stay there for one full month. She was there only for a few days. She wanted to go to the carnival, and that is why she stayed there for those few days.⁴⁰ It was not quite willingly that she remained there. I deny that she was there for two months, February and March. She was there during the carnival time, and after a week or two I brought her back to my bungalow.

Q. Do you deny that she came back to the Whist Bungalow only at the end of March? A. She was there only for a short time.

Q. Was she not there because she did not want to come back to the Whist Bungalow? A. She might have stayed there because the talk went too far.

By "the talk went too far" I mean that all sorts of stories spread about her and her name got spoilt.

I know that Dr. Van Dort has two grown-up daughters. Whenever I went there I sometimes saw them at home; sometimes they had gone out for their jobs. It must be a fact that all three girls, including Imelda, were in the same room in that house when she was staying there. Whenever I go to Kochchikade Church on Tuesdays I need not get my son's permission, or consult him, to take the car; because the car is in my bungalow always at my disposal. Sometimes I used to go to Imelda's stepmother's place and take Imelda also in the car to Kochchikade Church. On those occasions I used to call her to come to my bungalow; sometimes she used to come, but sometimes she showed signs of unwillingness to come and I did not force her. She might have come to my bungalow on one such occasion. But she went back that same day. The clothes that were taken by her on the day she was taken to be admitted to the convent were in her stepmother's house during the time she was staying there. I did not for the first time succeed in admitting Imelda to the convent because at that time the convent was full of pupils and there were no vacancies. I cannot remember which month it was.

Q. In February you did not take her to the convent to be admitted, but instead you took her to her stepmother's place? A. On that day I did not succeed in getting admittance for her in the convent because, as I have already said, at that time the convent was full and there were no vacancies. That is why I kept her in her stepmother's place. That was the first instance in which I took her to be admitted to the convent. I cannot remember which month it was. It was during Easter time that I took her to the convent for the second time. I cannot remember how many months, weeks or days before that that I took her for the first time to the convent. It was during the time of the carnival held at St. Joseph's that I took her for the first time to the convent. I have already said that she was at her stepmother's place only for a few days and that I brought her back to my bungalow from there. It was before the Easter that I took her for the first time to the convent. I cannot say how many months or weeks before the Easter; it is less than two months; it may be about one month before the Easter.

Q. Do you know that instead of going to the convent she went to the carnival? A. I know that; it was at that time she went to the carnival.

Q. And that during all that time her clothes were at her stepmother's place? A. Yes.

Q. And that they have not been brought back to the Whist Bungalow to date? A. Yes.

Q. I put it to you that you brought her back to the Whist Bungalow only at the end of March, 1946? A. That may be so,

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Q. Within a week or ten days of her coming back there was again displeasure between her and your son? No answer.

(To Court : I admit that there was displeasure again between her and my son, and that is why she was taken to the convent.)

It is not a fact that she refrained from taking her food owing to that displeasure?

Q. One day in April you took her to Bambalapitiya in a car? A. First I went with her to the Mutwal Church for Mass, and after the Mass was over I took her to be admitted to the convent in Bambalapitiya. I did not succeed on that occasion also, because it was vacation time and the convent was closed.

I went to her stepmother's house on that day.

(To Court : I took her to her stepmother's house not to keep her there, but to remove her clothes that were there. It was on the way to the convent that we dropped at her stepmother's house to remove Imelda's clothes ; and at that place I learnt in conversation with others that the convent was closed for the vacation and would not be admitting any pupils. I therefore did not go to the convent on that day.)

I go to Church on Sundays and on the Feast days. I do not go daily to Church. It is on Tuesdays that the Mass is said in the convent instead of the main Church, and not on Fridays.

On that particular day I left the house with the sole intention of going to Church for Mass, taking away Imelda's clothes that were in her stepmother's house, and then taking her to the convent to be admitted there. I did not go with my son on that day. I did not consult my son about putting Imelda to the convent, on that day or earlier. On that day the Mass was at 6-30 a.m. From the Church we went direct to Van Dort's house. We did not go to the convent on that day. It was my intention on that day to put her to the convent and all the people at home knew that I left home with Imelda with that intention ; the reason being that she was not well disposed with her uncle. I know that all the convents are closed for the vacation during Easter and no one is admitted during that time ; but this fact did not occur to me on that day.

Yes, it was because she was not willing to remain in my house that I took her to be admitted to the convent on that day. I deny that I took her on that day to be kept at her stepmother's place. I was not prepared to keep her anywhere other than the convent.

Q. If there was no convent available for her to remain the only other place that you had confidence in was her stepmother's house? A. Yes, it was because I had confidence in that place and kept her there that all this trouble took place.

Q. You say that you had confidence in her stepmother's? A. Yes, I had confidence in her ; but this Oliver Zoysa upset everything.

From the Church we went straight to her stepmother's place to remove Imelda's clothes and from there I learnt that it was not possible to get admittance in the convent for her on that day. I cannot now remember whether I took tea that morning. My mind is upset by what has happened.

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When I went to that house on that day Oliver Zoysa, Imelda's stepmother and Dr. Van Dort were there. I know Oliver Zoysa and his people very well. One of my brothers is married to Oliver Soysa's stepsister. I also know Imelda's stepmother very well. I know Dr. Van Dort because
10 he came with his wife to my house. He used to come to my house occasionally after his marriage to Imelda's stepmother.

It was not in my car that I went to Bambalapitiya on that day. My granddaughter told me that it was Oliver Zoysa's car, but I do not know that. I do not know if that was Oliver's car or Mrs. Van Dort's car. The car must have been driven by a driver; I do not know who the driver was. My grand-daughter knew that driver. I do not know whether Oliver Zoysa himself drives his car. I got into the car because my grand-daughter knew whose car that was. I had no particular reason or intention not to mention to my son about my going out on that day. The
20 Church is about 300 yards from my bungalow. I did not go back from the Church to my house for tea that morning. I need not consult my son to take my car out. Imelda and I went walking on that day to Church as the driver was not ready with my car. Generally, on Sundays, we sometimes go walking to the Church, that is when the car is not ready or when the driver is not there, and sometimes we go by car. On rainy days we go by car to Church. On that particular day my grand-daughter told me that a car was there for us and I got into it. I did not tell my son that I wanted to take Imelda to the convent in Bambalapitiya. I have already said that it was to remove Imelda's clothes that we first went to her step-
30 mother's place before going to the convent.

Q. I put it to you that it was because you did not want your son to know about it that you went in another's car instead of in your own car?
A. I deny that.

I do not know whether my grand-daughter had pre-arranged that car for us to go that day. It was because she knew whose car it was that I got into it and went.

Q. What is your explanation for not telling your son where you were going on that day? **A.** I don't tell him every time I go out where I am going. If I go on long trips involving two or three days I tell him;
40 otherwise in case of short trips from which I return the same day, I don't tell him. On that day we first went to Church for Mass. The Mass took a little more than half an hour. After the Mass was over we said prayers; then I waited to see the priest in order to inform him about my taking Imelda to be admitted to the convent. When all that was over it was about 7-30 or 8 a.m. I did not tell the priest definitely to what convent

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I was taking her. I simply said that I was taking her to the convent. I did not name the place. The priest did not ask me "Why are you taking her to the convent ; you have such a big bungalow".

I do not know whether the priest was aware of the fact that there was displeasure between Imelda and my son ; nor did I tell him of such a thing. I merely said that I was taking her to be admitted to the convent.

My husband had properties in Fort. He had properties in Pettah also. All the other properties that he had were in Mutwal. He had one property in Mattakkuliya also. The last mentioned property is not the one which is known as Minirangwatte. The property known as Minirang-¹⁰ watta is situated near the Modera Police Station, and this land was transferred by my husband to my grand-daughter. The income from that property may be about 40 pounds (Rs. 4,000). Another valuable property is situated next to the Chartered Bank Building. That property was occupied by the Ceylon Insurance Company and Hamber Brothers. I have no idea of the income from that property. I cannot say whether that property itself will worth about four lakhs. There are also three properties in the 4th Cross Street and 5th Cross Street. They are my properties. I do not know their value, nor have I any idea of their income. My husband transferred them in my name, may be in 1939.²⁰ All the properties in Fort and in Pettah were transferred in my name. The only land which is in Mattakkuliya, which is valuable, was also transferred in my name. The income was being collected by my husband during his lifetime. Now it is being collected by my son. The properties in Fort and Pettah and the one in Mattakkuliya—five in number—were the only ones that were in my name. No other properties were in my name. All the properties that were in my name and which I mentioned just now, I transferred to my son subject to *fidei commissum* ; that is five properties in all.

(To Court : I did not reserve the life-interest except that I made³⁰ them *fidei commissum*.)

Then the only other properties that my husband had at the time of his death were the Whist Bungalow, the Bloemendhal Stores, the property at the bo-tree junction (including seven houses) and a few houses at Modera Street. Whether these are nothing compared with the properties in Fort, Pettah and Mattakkuliya that were in my name, I do not know. I do not know the value of the properties which I transferred to my son ; they are subject to large debts. I cannot say the extent of those debts. I do not know the value of any of the properties that belonged to my husband. Even today I cannot say, leaving aside the question of debts,⁴⁰ which property is more valuable than the other.

Q. You had said in the examination-in-chief that in the house of Dr. Van Dort you had been told that very valuable properties of yours had been transferred to your son? A. Even Dr. Van Dort said on that day that properties worth lakhs had been transferred to my son.

I cannot remember whether it was I who went to bring back Imelda from Dr. Van Dort's place. I had gone to that house several times. I cannot remember whether there was any discussion between myself and Dr. Van Dort or anybody else in that house before about the transfer of my properties to my son. It was on that day that Dr. Van Dort referred to the fact that properties worth lakhs that were in my name had been transferred to my son.

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Q. Did you know that at least two or three weeks prior to the date on which you signed the deed that you had transferred certain properties to your son? A. Yes. I transferred those five properties to him and asked him to pay off all the debts and redeem the properties. I did that with my full willingness.

Q. When Dr. Van Dort told you that you had transferred seven lakhs worth of properties to your son, didn't you tell him "Well, I have done that willingly; what about it?" A. I did not tell him anything in reply. It was not news to me. I knew that I had transferred some properties to my son.

Q. Nothing that Dr. Van Dort told you confused you and worried you? A. When he said that I was left only with one and a half lakhs worth of properties I got confused; I then got excited.

I knew that I had properties worth more than 1½ lakhs. I did not tell Dr. Van Dort of this. In fact, I did not tell him anything in reply.

Q. If you knew that you had properties worth more than 1½ lakhs there was no necessity for you to get excited when he said that? A. On that day I went to put my grand-daughter to the convent, and all these things happened, and I got excited because of that.

Adjourn for lunch.

(Sgd.) N. SINNETAMBY,
A. D. J.

90 175/ZL.

21-10-47.

After lunch.

BRIDGET ANTONY sworn. Recalled (XXN. contd. by Mr. Perera).

As I said in the forenoon I intended to take her away to the convent on the 12th April. She said she was not willing to stay at home and so I took her away. Except what she wore on her person she did not take away any other jewellery then. She had taken the box containing the other jewellery on an earlier occasion. The other jewellery were left in my safe and in the almirahs and they had been removed; they belonged to my daughter and there were also articles belonging to me. A day or two before the 12th April Fr. Bourgeois did not visit me; some other priest came, I don't know who. Our mission priest had come prior to that but I cannot say when. I am unable to say when or whether I told that

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priest that my son had transferred all the properties in his name. (Witness referred to Fr. Bourgeois' evidence on this point). I do not remember saying that to the priest, and I do not remember Fr. Bourgeois coming home a day or two before the 12th. I do not remember my son placing any documents for my signature and my refusing to sign.

On the 12th April when Dr. Van Dort said that only 1½ lakhs worth of property remained for me I was confused in mind because it was worth more and I knew that. When the matter was twisted and put to me like that, that is when things worth much more were reported to me to be worth much less I was confused. On that day I knew that the Pettah¹⁰ and Fort properties were in my son's name; I had gladly given them over to him to be enjoyed after paying the debts. I would have given something to my grand-daughter when she married in the proper normal way. On that day I knew I had not given anything to her, but I had property to give when I wanted to do so, if she had got married in the proper way and continued to remain with me; that is apart from the portion that would go to her from the Estate. On the 12th April at no time I did know of the execution of a deed. How could I know, I am not divine? I know what a deed means—transfer of property. The doctor and Oliver Zoysa forced me to sign the document; otherwise I would not have done²⁰ it. Being alone, and as I was forced to do so I signed. I did not know it was a deed, I signed some document. I thought it related to the portion that she was already entitled to.

Q. Did you think it was necessary for you to sign any deed which conveyed her share of the property to her? A. I know nothing except that my signature has been obtained on a deed conveying property without my right to possession. I did not know that day that I was signing a deed; I signed some document; I did not know whether it was a deed or not. Nor did I know what it contained. I signed because I was harassed and worried by these people. If the contents were explained to³⁰ me I would have protested and refused to sign.

Q. Did you know you were signing it to confer some benefit to the grand-daughter? A. I did not know that my grand-daughter was to receive any benefit from it. I did not know who was to benefit from it.

Q. Did you think it was in favour of Dr. Van Dort? A. I did not know who was to benefit. No one told me to sign a deed in favour of my grand-daughter.

Q. Did the Proctors or the doctor or anyone tell you what you were signing? A. No one told me what it was except that they asked me to sign. No explanation was made to me.

40

I do not know when I went there, at 7 or 8 a.m. Sometimes after I went there two other gentlemen came; they came first by themselves, then they went away and came back with the Swami. Those two gentlemen first came there after I went, and the fat gentleman told me "Mrs. Antony, are you prepared to transfer the properties to your child, reserving the life-interest to you?" I did not give an answer to that, and he did

not ask me any more questions. Later he asked me to sign the document. I did not even ask him how the matter concerned him. I knew then that he was a proctor. Prior to that, or after that, they got into the car and went away with Oliver Zoysa. When the question was put to me I did not say that I must consult the priest. The priest came thereafter. I may have told the priest that they were asking me to transfer the properties, but I am not sure. Oliver Zoysa had brought the priest there; I did not know why he had come. I never asked him to come. It is Oliver Zoysa who brought him. The priest told me something which I cannot remember now.

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Q. Did you tell the priest that you were told that your son had got some properties from you? A. I did not say that. Soon after he came the priest went away.

Q. Did you tell the priest that you were afraid that the rest would also be taken away from you, and you wanted to give something away to the grand-daughter? A. I did not tell him anything. The priest said "I do not know, your brothers are there" and went away.

Q. Did you tell the priest that you would go to Court against your son for having taken away more than half? A. I did not tell him that.

Q. Did he say it was better to settle that quietly? A. He did not say that.

They prevailed on me to sign and I signed. Oliver Zoysa did all this, and the doctor. There were others also. I did not ask Mrs. Van Dort anything; she did not come up there. I did not ask the Proctors what I was to sign.

Q. Did you have any money in your bag that day? A. Not more than Rs. 4 and Rs. 5. I did not give any money to any proctor.

When I got back to Whist Bungalow it was 4 or 5 p.m. I was waiting for the car, but Oliver Zoysa had taken it away. The documents may have been signed about 12 o'clock. I do not remember having taken anything for lunch; I may have had a meal at the doctor's but I cannot remember. I came back in the car to Whist Bungalow about 5 p.m. No clothes belonging to my granddaughter were sent by that car back to Bambalapitiya; she had taken all earlier, and I did not send any. When I came home I kept on thinking of what happened and what they had got me to sign. Then I sent my servant boy for the Proctor; this is not even a month after the incident; I sent my boy to the Proctor but he had gone to Jaffna and did not return till after a week. A few days after I returned to Whist Bungalow I met my Proctor. Before I sent word to him he used to come to my office, but I never spoke to him on those occasions. It is not always that I meet him. After I sent word to him and he came, I discussed the matter with him, told him such and such a thing happened and asked him to look into the matter. I did not tell my son about this at that stage but only the Proctor. I said I signed some document but did not know it was a deed.

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Q. Can you explain this in your plaint: "At Van Dort's it was explained to her that a deed was ready for her signature"? A. That is not true.

Q. Did you state there that you were told by Oliver Zoysa that you were transferring the property to your grand-daughter subject to your life-interest (averments in para. 9 of the plaint)? A. I did not state that. It may be asked from the person who wrote it.

Q. Is it true that you told Oliver Zoysa that you refused to sign the deed without consulting your brothers or the lawyers (para 10 of the plaint)? A. I did not tell anything to Oliver Zoysa. 10

Q. Is it true that on the previous day (11th) Oliver Zoysa came to Whist Bungalow and offered to take yourself and Imelda both to St. Bridget's Convent? A. He did not tell me that. He came there the previous day. I told him that I was going to take her to the Convent the next day; he did not offer to take us to the Convent.

Q. Even if he said that you would not go with him? A. Why should I go with him. At that stage I had no desire to associate with him. Prior to that he offered his services though I did not associate with him; he himself offered to visit me and go. In 1945 he was not my adviser nor my friend. 20

Q Did he start visiting you in or about 1945? A. It was after the marriage proposal that he volunteered to assist in my illness and showed great interest in myself and my grand-daughter.

At the time this document was signed on the 12th April I did not know what it was about nor was it explained to me I went to attend to my own work.

I live now with my son at Whist Bungalow. I have nothing to ask my son about these matters except anything in connection with the business.

Q. Who instructed your Proctor to file this plaint? A. I asked 30 the Proctor to see about this matter and he asked me certain questions, and I answered. The Proctor is Mr. Rasanathan.

Cross-examined by Mr. Gratiaen—(contd.).

Q. On the 12th April did any of the proctors tell you anything on which you acted which you have since discovered to be false? A. It was by false representations I was made to sign. I was asked whether I agreed to transfer the property to my grand-daughter reserving to me my life-interest, but I did not reply. That was the only question he asked me; apart from that he did not tell me anything else.

Q. If the statement that you had donated 7 lakhs worth of property 40 to your son was false, have you subsequently found out the real value of the property given to your son? A. I have not assessed it, but I know it has been over-estimated.

I do not remember what exactly the Father told me that day. He would not tell a lie. I have three brothers, two elder and one younger. I consulted my elder brother before I spoke to Mr. Rasanathan ; I cannot say exactly how long after the 12th I spoke to my brother ; that is the surveyor brother who is present in Court and he was the first person to whom I told it. Because I did not know what it was I told him what happened. My brother must have enquired into the matter ; I asked him to do so. He said he too had been informed that something like this had happened.

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10 Q. Why did you not complain to your son who was living with you about what had happened? A. Because he was angry over the telephone incident I did not tell my son. My brother used to come there frequently, once or twice a week, and when he came I told him. My son was not angry with me. He was not well disposed towards the granddaughter.

Q. Is it not a fact that after you signed this at Van Dort's you asked everyone to keep it a secret because your son was angry with the granddaughter? A. No. It is true I did not tell my son ; I told my elder brother.

20 Before I sent for the proctor he used to come to Whist Bungalow on business but I did not meet him. I cannot say whether he came to the bungalow before I sent word to him after the 12th.

Q. Four days after this deed was executed your Proctor met you and got you to sign a power of attorney in favour of your son? A. I do not know.

(Mr. Gratiaen marks a certified copy of the Power of Attorney 674 of 16-4-46—1 D1).

Q. If you had met this proctor four days after the incident you would have complained to him about the matter? A. Yes.

30 Q. Even if your son was present? A. Yes, even if he was there I would have told him.

(Sgd.) N. SINNETAMBY,
A. D. J.

Further hearing tomorrow.

175/ZL

22-10-47.

MRS. B. ANTONY sworn. Recalled (cross-examination—contd. by Mr. Gratiaen).

40 Q. On the 12th April at the Van Dort's did anyone tell you that your son had done you an injustice? A. Oliver Zoysa and Dr. Van Dort said that 7 lakhs worth of property had been transferred in his name and also that only 1½ lakhs remained. No other allegation was made against my son. This made me feel that I should make enquiries and find out the truth, but I did not make any enquiries from anyone.

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—continued.

Q. Is it the statement made about the value of the property written in the son's name that made you to sign the document? **A.** They made me believe that only a very small portion was left and prevailed on me to sign. As I could not do anything else I signed. Before the 12th April I was not angry with my son; there was no reason for me to be angry; nor did I complain against him to anyone. My grand-daughter was afraid to be at home and wanted to join the convent. So I took her away that day to the convent and went to Van Dort's only to remove her clothes; we did not tell anything to the son.

Q. Is it not the fact that Proctor Mack had been written to with your knowledge and approval before the 12th April to protect the interests of your grand-daughter in regard to the property left by your husband under the Will? **A.** I know nothing about that. It is not true that the Van Dorts were asked by me to get some lawyer to investigate the position in regard to my grand-daughter; I did not do that. Nor is it true that I stated that I did not know the contents of the deed which I had executed in favour of my son; those properties were transferred to him with my consent; I do not know the value of the lands but I know that five properties were transferred. At the time the deeds were executed in favour of my son I knew what properties were dealt with by them. 20

Q. Are you aware that Mr. Mack was asked to search the register in regard to the deed of donation in favour of your son?

(Mr. Hayley objects to this question being put to the witness. I allow the question to go in.)

A. Who asked him to do that? I did not, nor am I aware of it. I have my own proctor to attend to my affairs. One of these properties transferred to my son is the one at Mattakkuliya which is subject to floods. There was no displeasure between my son and husband; my husband had no lack of confidence in my son. It is not true that in April, 1946, I was anxious to make some provision for my grand-daughter before my son got the properties in his favour. I deny that I voluntarily transferred properties to my grand-daughter on the 12th April, and I deny that I wanted to execute these deeds quietly and without the knowledge of my son. I did not tell my son about what happened, but I told my proctor. I was not at all pleased about it. I came back home with a burning heart and with great distress of mind. I cannot remember how long it was before I communicated my distress to anyone; I sent for the proctor and was informed that he was not available. My proctor came 4 or 5 days after the signature on the document; the delay was because he was not at home when I first sent for him. It was 4 or 5 days after the 12th April that I personally spoke to my proctor and told him what happened; he came on my earlier message. 40

Q. Do you now withdraw your statement yesterday that the proctor came earlier but you did not meet him? Did he come to Whist Bungalow after the 12th but before you sent for him? **A.** I do not know, but he came on my message; before I sent the message, after the 12th. I am

not sure whether the proctor came. I know this document was signed on the 12th April. Four days later, on the 16th, I told my son that I cannot look after these things, asked him to attend to them and gave him my power of attorney. Between the 12th and the 16th I cannot remember whether I saw the proctor. The power of attorney was attested by Mr. Rasanathan. I told the proctor that I was willing to execute a power of attorney in favour of my son.

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Plaintiff's
Evidence
Mrs. Bridget
Antony
Cross-
Examination
—continued.

The Proctor came home three times that day when the power was executed ; he came in the morning and we gave him instructions, then he came in the afternoon when the papers were prepared, and again in the evening when I called my brothers and the papers were signed. The instructions about the power of attorney were given on the same day it was signed. In the morning when I told him to inquire he came back in the noon and informed me all my properties had been transferred in my grand-daughter's name. I was disturbed and as a result I executed this power of attorney that same day in favour of my son. On that day the 16th April I complained to the Proctor for the first time about the incidents of the 12th April, in the presence of my brother and son. That brother is Mr. Jeremias Gunasekera who is not present in Court.

20 Q. Did you tell your Proctor to write to the defendants asking them to remedy matters ? A. We made preparations to file a case.

Q. Did you instruct him to send a letter of demand first ? A. I cannot understand that. I myself have not much work to do ; the work is done in the office.

(Shown 1 D2 dated 4th July, 1946). This bears my signature.

Q. You remember writing to the Mother Superior of the Convent asking for a receipt for Rs. 200 which you had paid as advance of boarding fees for your grand-daughter ? A. I wrote that because we paid the money but no receipt was sent.

30 Q. Is it correct that on the 19th May, five weeks after the document was signed, you paid Rs. 200 to the Convent on behalf of your grand-daughter ? A. On the day of admission money was deposited. The letter in which I asked for the receipt is dated five weeks after 12th April.

Q. Five weeks after the deed was signed at Van Dort's did you not go to Van Dort's house to take your daughter and leave her in the Convent ? A. I cannot say how long after the 12th April but I know it was some time after that I took her to the Convent ; because she did not come to me I went there to Van Dorts to take her away to the Convent. On that day I spoke to the Van Dorts as on other days, that is all. I have no
40 recollection of having made a prior arrangement with Van Dorts to take her away on that day. That day Oliver Zoysa did not go in our car when we set out from the Van Dort's house ; we went in the doctor's car with him and his wife. Oliver Zoysa may have come in his own car. Where was no displeasure between us and we were friendly. Before she went to the Convent I had been informed by Mr. Rasanathan that I had been forced to sign away valuable properties in my grand-daughter's name. I

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—continued.

cannot remember whether I asked the Van Dorts on this day why they did this to me. I told the doctor that I would file an action and get the deed set aside, some time after the 11th April, about a fortnight later. I do not know anything about my son having discovered that I had executed a deed in favour of the grand-daughter.

Q. Your grand-daughter from the 12th April did not take anything in respect of the rents she was entitled to from your husband's estate?

A. I don't know whether she received or not; there are people in the office who are aware of these things. What more should she receive when she was maintained and educated by me. My son is administering my 10 husband's estate.

It is not a fact that I was asked by the Proctors whether I wished to reserve for myself the life-interest in the properties transferred to the grand-daughter. I was not asked anything, nothing was explained to me. It is not correct that I said I did not wish to have the life-interest in case the properties were taken by my son. It is not a fact that Imelda said on the 12th April that she would let me have the rents of the properties so long as I was alive. I was not told anything by her. I deny that I brought Rs. 2,500 in cash on the 12th April to the Van Dort's bungalow. I did not take any money with me. I deny that I paid for the stamps. 20 I know nothing about summoning Sir Ernest de Silva and others in connection with this case.

Mrs. Bridget
Antony
Re-exami-
nation

Re-examined.

I remember the day the deed was signed. I went home from the Van Dorts. After that I sent a message to my Proctor, the same afternoon or the following day. Afterwards the Proctor came, a week or so after I sent the message. He came in the morning. I told him I went to Van Dort's house to take the grand-daughter away to the convent, her clothes having been there; that at that time there were several people present at the Van Dort, Oliver Zoysa, Dr. Van Dort, his wife; they said about 80 7 lakhs worth of property had been written in my son's name—in such a way that I was quite confused. When I told these things to the proctor that morning I have no recollection as to who else was present; my son may have been there. I asked the proctor to look into the matter and tell me how and why it was written. After that conversation he went away and came back at about 11 or 12 noon, I cannot be definite. He brought me some information. I asked him what should be done. He said "What is to be done, everything has been written away". I cannot remember who else was present. The Proctor went away and came back a third time; my brothers had been sent for and when the Proctor came 40 the third time we wanted to decide what should be done in the matter; what transpired then was that we decided that action should be filed. On the third occasion Mr. Jayasekera was there, my two brothers and my son and one or two of my relatives. The decision to have the power of attorney executed was taken on the third occasion when the Proctor came,

Two or three days before my husband died he left everything in my son's hands and asked him to attend to them in the proper manner ; he may have also given a power of attorney.

(Mr. Hayley produces the power of attorney attested by Messrs. Wilson & Kadirgamar dated 19th February, 1934, and marks it P11, and power of attorney executed by Mr. Rasanathan dated 14th May, 1943, marked P12.)

On the morning of the day I went to Van Dorts (12th April) I went to Church walking. After the service there was a car by the roadside near the Church and my grand-daughter suggested that we should go in that. Oliver Zoysa may have sent that car. He was not in the car. The driver was dressed in khaki coat ; I cannot say whether it was a uniform that he was wearing. I left the Van Dorts that day in some car. Oliver Zoysa came and took me in it. I am not sure whether it was the same car in which I came.

I remember I executed one deed in favour of my son, it was attested by Mr. Rasanathan. There were times when Mr. Jayasekera also attended to our work. When Mr. Rasanathan attested the deeds in favour of my son I told him that all my properties which had been under mortgage at that time should be written in my son's name, that my son should redeem the property, look after them well and they should devolve on his children subject to *fidei commissum*. I have only one son. My properties were under mortgage. I thought if the properties were not written in his name he might not look after them so well as he would if they were written in his name. The mortgages may be with the same company, I am not sure. Since they came to me from my husband I have made certain payments. Excepting these I have not executed other deeds in favour of my son. I have transferred only those five properties.

I cannot read English. I understand a little English. I cannot carry on a conversation in English. All my evidence in Court has been in Sinhalese and has been interpreted.

Mr. Jayasekera is my Proctor in this case and he used to visit me occasionally in connection with this case.

(Sgd.) N. SINNETAMBY,
A. D. J.

K. RASANATHAN affirmed.

I am a Proctor and Notary and have practised for 13 years. I knew the late Mr. C.S. Antony. I had been working for him since 1936. Prior to that Mr. Jayasekera and Messrs. Wilson & Kadirgamar used to work for him. After my time also Mr. Jayasekera used to work for him sometimes.

(Shown P3) I attested this deed, dated 24th February, 1939, in favour of Mrs. Antony the plaintiff with a *fidei commissum* in favour of the 1st defendant. The value is Rs. 20,000. There are two lands and the donor is the late Mr. Antony.

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Evidence
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Antony
Re-
Examination
—continued.

K. Rasanathan
Examination

No. 6
Plaintiff's
Evidence
K. Rasanathan
Examination
—continued.

(Shown P4). I attested this also on the same date, 24-2-39 executed by Mr. Antony in favour of his wife subject to a *fidei commissum* in favour of the children of Mr. Antony's son Stock Antony. The value of this is Rs. 35,000.

(Shown P5). This is dated the same date ; it is an absolute transfer of certain lands valued at Rs. 25,000 in favour of Mrs. Antony. This is attested by me.

(Shown P6). I attested this too, dated 26th June, 1939. It is a sale of two lands in favour of Mrs. Antony, valued at Rs. 47,000. There was a mortgage of Rs. 45,000 in favour of the State Mortgage Bank. Consideration was paid of Rs. 2,000.

(Shown P7). I attested this also on the same day. It is a sale in favour of Mrs. Antony for Rs. 3,000. It is valued at Rs. 103,000 and subject to a mortgage of Rs. 100,000 in favour of the State Mortgage Bank.

These last two properties make a figure of Rs. 150,000 subject to mortgages of Rs. 145,000. Plaintiff gave me instructions to transfer these properties subject to mortgages in favour of her son. She sent for me in February, 1946, and told me she was ill ; she used to receive notices for payment of instalments of the State Mortgage Bank ; she was not able to attend to these matters ; she would make a gift of these properties to her son subject to the mortgages. At that time an instalment which fell due in January had not been paid. Plaintiff was ill in December and January.

(Shown P8). As a result of her instructions I attested this deed dated 28th February, 1946. This is valued at 2 lakhs, covering all the properties.

(Shown P9 dated 23rd July, 1937, and P10 dated 7th October, 1938). These statements are from the State Mortgage Bank giving the exact dates of payment as required. The payments cover both capital and interest.

30

(Mr. Hayley proposes to produce a statement which shows the figures extracted from the above statements. Witness states he cannot speak to the statement. Mr. Gratiaen objects to its production. Mr. Perera also objects.

Mr Hayley states he wishes to produce this statement to show how much was actually payable in order to assist the Court and parties. In that case Mr. Gratiaen withdraws his objection, also Mr. Perera. Mr. Hayley marks it P13.)

P13 shows that in July, 1947, if payments had been regularly made there would be a balance of Rs. 105,774 still to pay on P9. Similarly on 40 P10 on a similar date Rs. 50,771.52 would still be due. These amounts are with interest. P8 was executed in February, 1946. The last item under P9 and P10 includes payments made by Stock Antony. At the date of P8 Rs. 171,883 would still be due.

On 12th April, 1946, I went to Jaffna and was away for 3 or 4 days. When I returned I found that Mrs. Antony had sent a message for me through her servant boy asking me to see her as soon as I returned. I left Colombo at 9 or 10 in the morning. On the 16th morning I went to see her at about 10 o'clock at her bungalow which is about 150 yards from my place. I saw her. She was very much worried and excited and she told me that on the previous Friday she was taken to Dr. Van Dort's house and there she was forced to sign some document which was not explained to her ; she was so excited that after a great deal of time she signed but did not know what she signed. She asked me to find out what it was. This happened on the 16th April. She told me some Burgher gentlemen were present but she did not tell me they were proctors. I thought the documents must be deeds, and went to the Land Registry. I was aware what her properties were and where they were registered. Mrs. Antony asked me whether it was true that she had by my deeds transferred property worth 7 lakhs to her son. I told her that I had done all that she instructed me to do and that the mortgaged properties were all that was transferred to her son. She told me she was taking Imelda to the Convent but she was taken to Van Dort's house and there asked to sign some papers which she did not know and was not prepared to sign ; and after she was worried and forced to sign she did so. So I went to the Land Registry. I am the proctor for the Administrator in the Testamentary Case. I could not find out what these papers were because they had not been registered then. I enquired from one of the clerks there ; he told me there was a deed of gift tendered for registration but not registered yet. It would be possible to get a copy of the deed though it was not registered if the duplicate was there ; till the duplicate came I could not get a copy. I asked my clerk to go and ask Mr. Modder about it. Mr. Modder would not give the deed without consulting his clients. I was able to get it from Mr. Modder only the next month, May. That is the copy filed of record marked P1. It is dated on the stamp.

On the 16th after I got this information from the Land Registry I had some other deeds to be attested in the office and went later on to see Mrs. Antony. I told her she had transferred subject to no conditions her half share of the properties which she had got from her husband. I found out that Mrs. Antony's half share had been transferred. After I gave that information she sent for her brother who was living about 50 yards away from her place. Her son was in the office and he too was sent for, and we all discussed what should be done. The power of attorney was signed later in the evening at about 6-30 or 7. She said she was worried, she could not sign any more papers and the best thing would be to give the power to her son, and she asked me to take the steps. I used one of the printed forms available in my office. 1 D1 is the copy of the power which I attested that day. I was aware that Mrs. Antony had previously given a power in favour of her son, P12 of 1943.

The second meeting took place at about 3 o'clock on the same day when it was decided that we should consult Counsel about the matter,

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Plaintiff's
Evidence
K. Rasanathan
Examination
—continued.

I went to the bungalow three times. About 6-30 or 7 in the evening the power of attorney was executed. At the second meeting we decided to consult Counsel. But we could not get a copy of the deed. When we did get the copy I consulted Mr. Nadarajah. Mr. Nadarajah advised me that Mr. Jayasekera should attend to this work as I should be a witness in the case. I paid him his fee. He suggested that we should file the plaint straight away.

(Sgd.) N. SINNETAMBY,
A. D. J

Adjourn for lunch.

10

175/ZL

22-10-47.

After lunch.

It is agreed that this case cannot be concluded today and that further hearing be fixed for the 15th, 17th and 18th of December, and if necessary, the 19th of December, 1947, as well.

K. RASANATHAN affirmed. Examination-in-chief—(contd.).

I am the Proctor for the Administrator of the estate of the late Mr. C. S. Antony. For the purpose of the valuation the Estate Duty Department included all the other properties covered by P3, P4, P5, P6 and P7; and that is a difficulty we were having.

20

(To Court : They have been brought in on the basis that the late Mr. Antony, although he gifted them did not part with the properties. The beneficial interest was still with him.)

Those deeds were executed four years prior to the death. He retained possession of the properties and took the income. The Estate Duty Department increased the valuation of some of the other properties. P14 is a copy of the document sent by the Estate Duty Department. They have increased the valuation by Rs. 78,450 in respect of the properties subject to the testament. We have got to pay yet Rs. 31,296. The subject of valuation is still under discussion. It is in regard to the inclusion of the properties that we have appealed.

K. Rasanathan
Cross-
Examination

Cross-examination.

(Shown P14). The Estate Duty Department brought in for the purpose of valuation the properties covered by P3, P4, P5, P6 and P7. They are the immovable properties which they had valued at Rs. 569,740.

Q. Does that valuation take into account the mortgages? A. They have subsequently written a letter saying that they are prepared to give credit for that.

(Counsel marks that document, dated 3-9-47, as 1 D3.)

That is to make allowance for the existing mortgages at the date of the death of the deceased, amounting to about Rs. 129,000. The property

which was inventorised originally by me was valued at Rs. 242,356. I did not object to that valuation. I have accepted the valuation. My only appeal was with regard to the inclusion of the properties in question. Even with regard to that, they are prepared to give some sort of concession.

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Plaintiff's
Evidence
K. Rasanathan
Cross-
Examination
—continued.

Q. The properties valued at Rs. 242,356 included the immovable property in respect of which the plaintiff's half share is dealt with by P1?

A. Yes, that was our valuation. It will come to about Rs. 200,000 roughly.

So that the half share covered by P1 will be about Rs. 100,000. That figure Rs. 200,000 has been increased by Rs. 78,000, so that the half share would be Rs. 130,000 odd. That is, the valuation at the date of death of the deceased, in 1943. Between 1943 and 1946 the valuation of properties has generally gone up by about 200 per cent.

Q. Would you kindly tell me whether the property dealt with by P1 and also the properties dealt with by P3, P4, P5, P6 and P7 have gone up by about 200 per cent. between 1943 and 1946? A. I cannot say whether it is exactly 200 per cent.; it may be more, or it may be less.

Q. Did you say earlier that the plaintiff asked you whether it was true that the properties which she gifted to her son by P8 would be worth 20 lakhs? A. Yes. I do not think that it would have cost much more than that in 1946.

The figure Rs. 569,740 does not include all the properties. That is a mistake. That includes P3, P4 and P5. The properties transferred to the son include P6 and P7. The property dealt with by P6 is valued in P14 at Rs. 95,000; that plus Rs. 233,500 comes to about Rs. 328,000, which is subject to a mortgage of about Rs. 130,000. The Pettah and Fort properties had already been valued. The value has since gone up. It had gone up by much more than 200 per cent.

The power of attorney, which I attested, executed by the father in favour of the son was executed one day prior to his death. When the late Mr. Antony was ill I was in touch with his affairs. I did not sign any of his official documents; but I was consulted with regard to such documents.

The father had very valuable business. He was mainly a tea merchant. The son Stock Antony was in the father's business till about 1942. For one year he was away in some outstation with his wife and children. After that he came back. There were always differences between the father and the son, with regard to the business. The manager of the father's business was one Mr. Menon, and the son was working under him. The father and the son had different ideas about business, and that is how their differences arose. The father had an estate called "Hendala Farm" on which he spent a large sum of money for experimenting of copra. The son thought that the father was too extravagant and was spending money unnecessarily, but the father thought that it was the son who was spending unnecessarily. As far as I know the son is a very thrifty man. The son asked the father to close down the work on that

No. 6
Plaintiff's
Evidence
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Cross-
Examination
—continued.

estate and go on with his tea business. The father did not agree. As soon as the father died and the son took the administration of the estate, the first thing that the son did was to sell that Hendala Farm.

I visited that house more frequently during the lifetime of the old gentleman than after his death. The instructions from the old gentleman was that I should see him in his house every other day. After the old gentleman died I visited that house only when the old lady sent for me. Mr. Stock Antony generally comes and see me in my house if and when he wants my advice. My house is about 150 yards from the Whist Bungalow. There may have been occasions on which the son brought 10 messages to me from his mother, but I cannot think of any particular occasion. As far as I know the relations between the mother and the son have been cordial.

Q. Are there any occasions on which instructions were given to you by the son on behalf of the mother? *A.* I cannot remember any such occasion. In case of an important matter I go and see the old lady.

Q. Can you tell me whether either in March or in April last year there was any displeasure in the Whist Bungalow, that it was not a very happy home, whatever the reason might have been? *A.* I think there was some displeasure in that bungalow over the grand-daughter's engage- 20 ment. I know nothing else. I cannot say whether the son and the grand-daughter were angry with each other over that engagement.

As far as I could observe the old gentleman was affectionate towards his grand-daughter and used to treat her as a child, but his affection was greater towards his son, Mr. Stock Antony, he being the only son in that family.

I do not remember whether I went to the Whist Bungalow on the 10th of April, 1946. I am not aware of any incident which took place on that day in which the son wanted the mother to sign a document and the mother refused to sign. I have no knowledge of such an incident even 30 now. I cannot say whether this is the first time that it was suggested to me that the plaintiff refused to sign some document which her son wanted her to sign. I used to go to her with documents for her signature. I sometimes used to send documents to the son for his mother's signature.

Q. Till now you did not hear of an incident in which the mother refused to sign a certain document which the son wanted her to sign? *A.* No. I am perfectly sure of that.

Q. The 1st defendant, the grand-daughter, had said that you were present in that house when that incident took place and that you were wearing a torn coat at the time? *A.* I do not think that the grand- 40 daughter had ever seen me wearing a torn coat.

Sometimes the mother used to send for me and consult me about her little troubles. But I don't go there unless she sent for me. In 1946, that is up to the 12th of April, I might have gone there about four or five times. I know Father Bourgeois.

Q. Father Bourgeois has said in his evidence that the plaintiff had told him that she had some trouble with her son, in that the son had asked her to sign a document which she had refused to sign? A. I know nothing of such an incident.

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Plaintiff's
Evidence
K. Rasanathan
Cross-
Examination
—continued.

The details mentioned in the plaint are in accordance with the instructions given to me by the plaintiff. But I do not think that she is conversant with legal aspects of any matter.

I know Proctor P. D. A. Mack. I know that he is a very senior and respected gentleman of the profession.

10 I know Mr. Modder also, but I have never come in contact with him. I know him only for the last two or three years. I know Mr. Mack very well. The name of Mr. Mack was not mentioned to me in regard to the incident which took place on the 12th of April. If Mr. Mack's name was mentioned to me as being the Proctor who attested this deed I would have gone straight to him and consulted him.

Q. That is because the idea of his being involved in a transaction where somebody has been forced to sign a document is entirely inconsistent? A. Well, I cannot say that.

20 Q. Do you think he could have been a guilty party to such a shady transaction? A. I do not think I would have believed of such a thing of Mr. Mack.

It was on the 16th of April that the old lady told me for the first time about the incident that took place on the 12th of April. I think she was the only person present at the time she told me that. Her son was not there; he was in the office. She told me that they had talked about 7 lakhs worth of properties transferred to her son, and she also mentioned about her other properties referring to the document she had signed. I inferred they were the properties dealt with in P1. I then left for the Land Registry to find out about the matter. I admit that the first person
30 I should have consulted immediately after she told me about that was her son; but I did not consult him then because I had some urgent work to be attended to in my office, and therefore I went straight to my office, and after attending to that work proceeded to the Land Registry. She did not mention what kind of document it was that she signed; she merely said she signed some papers. She also said that the parish priest was summoned and that the latter had told her to consult her brothers before signing any document.

Q. Did she tell you about any false statement which had been told to her by them on the 12th of April at the office of Mr. Van Dort? A.
40 She said that they had told her all her properties had been transferred to her son and that nothing had been left for her.

She did not tell me that she thought she had signed a deed of gift subject to a life-interest. Besides the plaintiff nobody else gave me any information about the incident on the 12th of April.

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Plaintiff's
Evidence
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Examination
—continued.

(Counsel refers to paragraph 9 of the plaint and reads it out.)

That is according to what she told me later on the same day. I went and saw her in the evening after I returned from the Land Registry, and it is then that she made that statement. I think on the 16th she told me that she had been asked to sign a deed of gift conveying certain properties to her grand-daughter, subject to a life-interest. That appeared to me to be absurd. Imelda had got under the old gentleman's intestacy an undivided one-fourth share of all the properties free of any encumbrances whatsoever.

Q. The old lady told you that they wanted her to convey the grand-daughter's properties by her own deed? A. That is what was in her mind.

Q. So that she knew that what she was to sign was in fact a deed of gift? A. They had told her that it was a deed of gift.

(To Court : What she told me was that they had informed her it was a deed of gift.)

They had threatened her that if she did not sign that document they would not take her back to her house. It was both Mr. Oliver Zoysa and Dr. Van Dort who had said that, she told me. I knew Mr. Oliver Zoysa before. Although I knew him I do not think I had ever talked to him I did not know Dr. Van Dort ; I had not seen him before. She told me that they gave her the impression that practically all her properties had been gifted to her son.

Q. Did she tell you that she was afraid that the rest of her properties would be taken away from her by her son and that she would be left with nothing? A. She did not tell me so.

Q. Did she tell you that she was anxious to do something in order to make provision for her grand-daughter? A. No.

Q. Am I to understand then that she made it clear to you on that day that she was not willing to make any provision of any kind to her grand-daughter? A. Yes.

I think the old lady told me one day that she wanted to put her grand-daughter to the convent as the latter and her uncle were not pulling on well.

For searching registers in the Land Registry, generally, written applications are necessary. But on the 16th of April I did not make a written application. The date of registration is the date of the day book. It is registered only a month later. I got the necessary information about the deed from a clerk in that office. I know many clerks there. I can mention their names, for instance, F. D. S. Pieris, I know him. He is a senior clerk. He is not there now, he has been transferred to Kurunegala, I think. It is he who gave me all the details in regard to P1. I applied to Mr. Modder for a copy on the 17th. I sent a clerk to him for that copy. I did not send a chit to Mr. Modder. If I sent him a chit he would not have sent me a copy. Therefore I sent my clerk. He would not bother to find out whose clerk it is,

Q. Do you mean to say, without knowing whose clerk it is he would give a copy? A. He sent me a copy.

Q. So Mr. Modder gave a copy of that deed, which is filed of record, at the request of a clerk? A. Yes, that is usually done.

There are also instances in which I had sent written applications, but that is not always necessary. Anybody would get a copy on paying the money. About this copy I did not go and see Mr. Modder, I only sent my clerk. I saw the clerk going there, but I did not see him entering Mr. Modder's office.

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Plaintiff's
Evidence
K. Rasanathan
Cross-
Examination
—continued.

10 (To Mr. Cyril Perera):

Q. Did this lady tell you on the 16th or on any other date that anybody had told her on the 12th of April at Dr. Van Dort's place that she had gifted all her properties to her son? A. She said practically all her properties.

The properties that she got from her husband she had gifted to her son subject to *fidei commissum*. After transferring those properties to her son I do not think she had any other properties in her name except the ones which she got by inheritance from her husband. To my knowledge she had no other properties in her name.

20 (To Court: Apart from the properties which she acquired by inheritance from her husband she had no other properties after she executed the deed in favour of her son.)

Q. Have you had any dealings directly with the State Mortgage Bank on behalf of any of your clients? A. These two loans were put through by me. It is I who negotiated with the State Mortgage Bank.

Generally, the maximum that they would lend is 60 per cent. In this case they gave 60 per cent. At first they offered less. That was not sufficient to pay the earlier debts. So I went and saw a certain gentleman who agreed to give us 60 per cent. I have said earlier that the value of
30 properties had gone up by 200 per cent. since 1943. Residential properties had gone up much more than 200 per cent. between 1937 and 1947. It all depends on how and where the properties are located. There is only one Fort property in this case. That is occupied by two different business concerns, one of them being the Examiner Press. I cannot say if that is the only building which has a printing press. Times Building also has a printing machine, and so with several other buildings. I cannot say whether that Fort property is very valuable by reason of its being able to have a business concerns like a printing press.

40 Yes, I have attested a large number of deeds. The late Mr. Antony asked me one day to draw up a last will for him. I drew up one and gave it to him. He had an old will with him. He destroyed that in my presence and took this will which I drew up and promised to sign it later, but he did not sign. After his death I found that will in the old man's safe and he had signed it. I did not attest that will. I have still got that document with me. I was present on the date on which the deceased's

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safe was open, and it is on that day that I came in contact with that document. I cannot remember whether it was Imelda who opened the safe on that date.

I generally go to India twice a year and to Jaffna once a year. In 1946 also I went twice to India ; that is once in August and once in December. I think in June also I went to India that year ; I went about four or five days prior to the vacation.

It was the late Mr. Nadarajah who drafted the plaint for me on my instructions. I gave instructions by word of mouth. I got the instructions from the plaintiff. Plaintiff's son and her brothers were also present. I cannot remember whether the son or the brothers made any statement to me in regard to the instructions.

The old lady did not tell me that she was so much influenced by Oliver Zoysa that she was guided by his advice. The plaintiff told me that it was on account of a displeasure between her son and Imelda that she was taking the latter to the convent. I know that the displeasure continued right up to April, 1946 ; that is till the time of that incident.

During the illness of the late Mr. Antony I used to go to that house almost every other day. I saw the 1st defendant, Imelda, always coming into the room of the old gentleman in answer to his summons. It was because the other children in the house were too small and Imelda was the only girl who could attend to anything in the house. Mrs. Antony was too old. Mr. Antony had also an attendant in the house ; one attendant in the daytime and one in the night time. I know the difference between an attendant attending on a sick person and a near relation attending. Imelda was the only girl who could do something in the house at the time of Mr. Antony's illness. The son and his wife and children were not in the house of the father at that time. They had gone to an outstation. They came to the father's house only in February, I think. That is about a month prior to the death of the father.

Q. The old lady has told us that the son came back to the father's house only a week before the father's death? A. No, he came back to that house in February ; that is about a month before the death.

Q. At the time of the illness of Mr. Antony the " boss " in the house was this little girl Imelda, because the old lady was infirm? A. I cannot say that. Mr. Antony had his clerks to attend to his work. He had an old clerk called Mendis who was always in touch with him and who attended on him.

Whenever I go there I only talk to the old gentleman, go through his papers and letters and then come away. I cannot say whether Imelda was the only person who was really attending to the affairs in the house. When Mr. Stock Antony came back to the house he attended to the affairs of the house, being the son. I do not think there was any sort of displeasure between the 1st defendant and her uncle prior to December, 1945. To my knowledge, it is only in December, 1945, that the displeasure arose

between them. Why I say December, 1945, is because on the 24th or 25th of that month Imelda attained majority and her grandmother had a party.

Q. The grandmother was very anxious to see Imelda settled down in life before she died? A. Yes.

Q. Do you know whether the old lady consulted Mr. Oliver Zoysa in connection with a marriage proposal for Imelda? A. I do not know that.

Q. From your knowledge of the parties concerned, do you think that the old lady would have been persuaded by anything that Mr. Oliver Zoysa had told her about a match for her grand-daughter? A. I cannot answer that question.

The plaintiff never told me that she was persuaded by Mr. Oliver Zoysa to take Imelda to the convent.

Q. Did she tell you at any time, or did you gather from her talks, that she was doing everything on the advice of Mr. Oliver Zoysa and nothing on the advice of her son? A. No.

Whenever there was any proposal for the girl the old lady used to send for me and ask for my views about the matter. I don't say that she was not consulting her own son; she must have consulted him, but she consults me also.

On the 16th of April when the plaintiff mentioned to me about the document which she signed on the 12th of April she did not know what document she had signed, and I have said this in my examination-in-chief. What I gathered from the conversation on the 16th of April was that I was the first person whom she consulted after the signing on the 12th. When she consulted me on the 16th for the first time in the Whist Bungalow she and I were the only persons present. Nobody else was present. At the first consultation she told me that she was taken to the house of Dr. Van Dort. She did not tell me by whom she was taken. I am not sure whether she said that it was Mr. Oliver Zoysa's car that she was driven, and also who the driver was. She said that she wanted to take the girl to the convent and that on the way Imelda had told her that her clothes were in Mrs. Van Dort's house.

Q. Without ascertaining that the girl had taken her clothes she left the house with the girl to the convent and then on the way she was told by the girl "My clothes are at Mrs. Van Dort's place"? A. The impression that I got was that when they started from home the old lady did not know that the girl's clothes were at Mrs. Van Dort's place.

I am not certain whether Imelda was in the convent prior to April, 1946.

Q. In the car the 1st defendant had told the plaintiff "My clothes are at my aunt's place, we will go there and take them"? A. Yes, that is what Mrs. Antony told me on the 16th.

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She said that they went there ; then they got down at Dr. Van Dort's place ; then as they got down and went in Mr. Oliver Zoysa and Dr. Van Dort wanted her to sign some papers. The only persons present at the time were Mr. Oliver Zoysa, Dr. Van Dort and Mrs. Van Dort. That was the impression that I got. Mr. Oliver Zoysa and Dr. Van Dort were there when they got down the car. It was in the presence of Imelda that she had been asked to sign ; that is what she told me. Plaintiff did not tell me what time this happened. In reply plaintiff had said that she had come to take the girl to the Convent and she had refused to sign the papers. Then the car went back and brought the parish priest, Mr. Mack and Mr. 10 Modder. She told me two Burgher gentlemen and the parish priest ; she did not give the names of the two Burgher gentlemen. Up to that point the plaintiff had refused to sign the papers. I did not ask her why those two gentlemen and the parish priest came. They all had asked her to sign the document—not including the parish priest. The parish priest had told her “ Consult your brothers and sign the document ”. The priest had not told her “ These people are going to play you false ”. At the first consultation which she had with me she told me that the deed was going to be signed, that there were two Proctors there, and that the parish priest had told her to consult her brothers before signing it. Plain- 20 tiff wanted me to find out what that document was. She did not say DEED ; she said DOCUMENT. Why I went to the Land Registry was because I knew that it must have been a deed. If it is a document and not a deed I cannot get any information. It was about 9 o'clock in the morning that she told me all this.

Immediately thereafter I went away and did not talk to anybody else in that bungalow. I went in search of the deed. As a result of my investigations I found that there was a deed attested by Mr. J. A. V. Modder. Being a proctor myself I knew Mr. Modder, but I had never spoken to him. If I wrote to him on that day I would have had to send 30 him his certifying fees and also one rupee for the stamp. Some people don't send the fees without the permission of their clients. I don't know why. In order to get a copy of a deed from the Land Registry it would take about one month. It is the practice among proctors to help each other in giving out certified copies of deeds. They do that for the sake of ordinary courtesy. But some proctors do not do that. There have been very many occasions on which proctors have refused to send me certified copies of deeds. In this particular case I did not want to write to Mr. Modder, the only reason being that I did not know him personally.

I did see my clerk leaving for Mr. Modder's office, but I did not see 40 him entering that office. That clerk attends to all my work, and I trust him. I believe what he tells me. That was on the 17th of April. The next time that I sent the clerk was on the 5th or 6th of May, and it is on that day that I sent him the charges. He took some time for getting the copy typed. The copy was actually delivered to me on the 13th. It was on the 5th or 6th that the clerk went and paid the charges, though I got the copy on the 13th. I cannot be very exact about the dates,

(To Court : I cannot say exactly whether it was on the 5th or 6th that I sent him the charges. But I remember it was about a week before I received the certified copy that I sent him the charges. It is my clerk who went and brought the certified copy ; and that was on the 13th. On the 5th I sent him once. Then again he went, and that is to bring the copy.)

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—continued.

It is incorrect to say that the clerk went only on one subsequent occasion. He went on two subsequent occasions. On one occasion he went and paid the charges ; and on another occasion he went and brought the copy.

C. S. Antony & Company were tea merchants known all over the world. They were dealing with Egypt, Palestine and the Middle East, and made much money on their business. Their main business was on tea and that business dropped after 1934. The late Mr. Antony had a contract with the Government for packing tea ; that is, for packing 50,000 pounds of tea per month. That contract was with the Tea Control Department and he started that in January, 1943. In 1942 he was still exporting tea. It is after that that he took the contract for packing tea. Till Mr. Antony's death he was carrying on with that packing contract, and after his death his son, Mr. Stock Antony, continued it.

Q. In connection with that contract, shortly after the death of the old gentleman, some documents had to be signed by the old lady? **A.** She had signed several documents.

In case of important documents which require to be signed by her I used to go there myself. She used to send for me, and get me to explain those documents before she signed them. She was intelligent, and I can say she was a careful lady. She insisted on my telling her what the contents of the documents were before she signed them. When she signed the deed of gift in favour of her son she did not tell me that she wanted a copy of that deed. I do not think that she asked for a copy of that deed even later.

Q. After her husband's death, all the payments in connection with the bonds were made by the son? **A.** According to my recollection payments were made by cheques drawn by her on her bank account, that is the Bank of Ceylon.

It was not paid out of the estate of the deceased. It was paid out of her private account, which is in the Bank of Ceylon. The estate has a separate account in the Chartered Bank. She had a fairly large account in the Bank of Ceylon. The equated payments on the two bonds were about Rs. 11,000 per year, payable out of the income. Out of all the properties she get about Rs. 24,000 a year. She had some difficulty about paying interest because she had advanced some money for payment of the estate duty. Even now the estate owes her. She had no money ; so she borrowed money from the Chartered Bank. I think she advanced about Rs. 26,000. The estate is paying the interest on that,

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—continued.

The girl's father had some properties in Alutmawatte Road. They were properties bought out of his money, not gifted properties ; there is a small income from them. I was not in the habit of handling the estate's money, and I am not aware whether the son, Mr. Stock Antony, put the income from these properties also into the money in connection with the testamentary case. Mr. Mack wrote me a letter in connection with the income from those properties. I do not think that I have included that income also in the money connected with the testamentary case.

The old lady advanced Rs. 26,000 to the estate. I agree that the estate is a solvent estate. She had no ready cash with her, and that is why she advanced that sum. She could have paid that Rs. 26,000 from the estate ; but then there is the difficulty of collecting the rents, etc. There are the repairs to be made from time to time to the buildings, and also the other expenses, such as payment of rates, income tax, etc. Some of the properties are in Mutwal, and some in a commercial area. I agree that there was no dearth of tenants in 1944 or in 1946. After the end of 1943 there has been no dearth of tenants.

Q. The reason for the transfer of these properties to her son certainly cannot be a difficulty in meeting the payments due to the State Mortgage Bank ; were there any other reasons ? A. It is not the difficulty ; it is the worry and trouble ; the trouble of collecting the rents of Rs. 2,000 every month.

The old lady told me that it was a great worry for her to collect the Rs. 2,000 rents. She told me that she found it very difficulty to control it. I do not know what the difficulty is. She told me that she had trouble and worry about that. I did not ask her, nor did she tell me what the trouble and worry was ; she had that in her mind ; and it is for that reason that she transferred the properties to her son. I cannot say why she did not transfer them to her brothers or to anybody else. I attested that deed at the Whist Bungalow, on one evening, in the presence of the son. Nobody else was present at the time. I cannot remember whether Imelda was at the Whist Bungalow at that time. Imelda must have known about her grandmother transferring those properties to her son Stock. Her grandmother must have told her about the execution of that deed of gift. I cannot say whether it was shortly after the execution of this deed P8 that the 1st defendant left the Whist Bungalow to live with her stepmother.

Q. Is it about this time that Mr. Mack began to represent the interest of the 1st defendant, Imelda, and write you letters ? A. Mr. Mack wrote to me a letter.

Q. The idea was that the 1st defendant wanted to have a proctor for herself ? A. I cannot say that.

I think it was in May that Mr. Mack wrote to me for the first time on behalf of the 1st defendant. Mr. Mack never spoke to me either personally or on the telephone about the matter. It was only in May that the 1st

defendant went and retained a proctor ; that is after this deed was signed. At no time did the plaintiff or her son Stock asked me why the grand-daughter was retaining a proctor at that stage.

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Q. Were your clients averse to the grand-daughter retaining a proctor? **A.** I cannot say that. I do not know whether they had any objection to that.

I know that parents usually transfer their properties to their children. I would have thought it absurd if the plaintiff told me that somebody had mentioned to her that she had transferred all her properties to her son.
10 I know that she is a woman having properties, and having money.

Q. And having a knowledge of controlling servants? **A.** She has servants, but I do not know whether she has a knowledge of controlling servants.

She is not an educated woman, but she is intelligent. What I mean is she is illiterate, but she is a careful person. She cannot read and write English ; but she might have a knowledge of guessing the meaning of a word or two of that language.

Q. She had said in her evidence that she is conversant with the English language? **A.** I do not think that that is so.

20 (Counsel refers to paragraph 6 of the plaint.)

Q. “The 2nd defendant continued his visits which became more frequent thereafter and gained an ascendancy over the minds of the 1st defendant and the plaintiff.....” Is this averment true or not? **A.** Those are statements which the plaintiff had given to me later for the purpose of the plaint.

Q. It is also said in the plaint (paragraph 7) : “.....at the instigation of the 2nd defendant the 1st defendant expressed a desire to be a boarder at St. Bridget’s Convent, Colombo”. Is that true? **A.** If that is mentioned in the plaint it must be true. She made those statements to me for the purpose of the plaint. Independent of that I have
30 no recollection.

It was the late Mr. Nadarajah who drafted the plaint. I must have given that instruction to Mr. Nadarajah. I did not give him written instructions. I gave him the important points verbally.

(Counsel refers to paragraph 8 of the plaint and reads out : “.....the second defendant visited the plaintiff at Whist Bungalow and offered to take the plaintiff and the 1st defendant to St. Bridget’s Convent on the following day on which day he took them in his car to one Dr. Van Dort’s house in Bambalapitiya.....”).

40 That is what the plaintiff told me.

(To Court : About this instruction also I have no independent recollection.)

What is stated in the plaint must be true. Whatever I have said there is according to my recollection of what the plaintiff had told me.

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—continued.

Q. So she and Imelda went in the car? A. That is right.

Q. If the plaintiff had said that she went in Mr. Oliver Zoysa's car, is it correct or not? A. They went in his car, she told me.

Q. According to your recollection what she told you was that she had signed a certain DOCUMENT? A. Yes, but I told Mr. Nadarajah that she had signed a DEED.

Q. Did you tell him also who got that deed prepared, or whether the deed was ready made when she went there? A. She told me that it was ready made when she went there, and I told Mr. Nadarajah accordingly. 10

Q. But she did not tell you who prepared it? A. I think she told me that Mr. Oliver Zoysa had got that deed prepared, and that it was ready made when she went there.

Q. "She signed some document which she did not know". "There was a DEED ready made by Mr. Oliver Zoysa when she went there". Of these two which is correct according to your recollection of what she told you? A. She said she signed some document. On my subsequent investigations I found it to be a deed. She did not tell me it was a deed.

Q. If she said that it was a document, have you any recollection 20 that she said it was prepared by some particular person? A. She did tell me that it was prepared by Mr. Oliver Zoysa.

(Sgd.) N. SINNETAMBY,
A. D. J.

Further hearing postponed for the 15th, 17th and 18th of December and, if necessary, the 19th December, 1947.

175/ZL

15th December, 1947.

MR. ADV. HERATH, for the 1st defendant.

Mr. Herath submits a medical certificate to the effect that the 1st defendant is suffering from chickenpox and is not free from infection to 30 attend Court.

MR. ADV. CYRIL E. S. PERERA, for the 2nd defendant, absent.

MR. ADV. HAYLEY, K.C., for the plaintiff, objects to a postponement and states that Mr. Rasanathan is under cross-examination, and there are three or four other witnesses who could be called before the 1st defendant. The presence of the 1st defendant is not essential for the purpose, as all instructions would have been given earlier, and the case has been fixed for the whole of this week. He submits that the case can go on and if the lady is unable to attend Court when the time comes for her to be called, the trial may, at that stage, be postponed. 40

Mr. Herath states that he had written to the Proctor on the other side last Monday informing him that he was asking for a postponement, and Mr. Adv. Cyril E. S. Perera, who was cross-examining the witness in the box, is not available today. He therefore asks that the hearing be started on Wednesday. Mr. Herath says he is not asking for the case to be postponed in its entirety but only for today and tomorrow.

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—continued.

Mr. Kandasamy states that his senior is out of Colombo because he was informed that an application was being made for a postponement. He says that he was so informed by the 1st defendant. Mr. Herath says that as a result of the 1st defendant being down with chickenpox and as a result of 1st defendant applying for a date, learned Counsel for the 2nd defendant left Colombo and is not here to continue the cross-examination. He says that he will be willing to go on from Wednesday.

It is now 2-15 p.m. I have a partly heard inquiry before me which is not yet concluded. I shall not be able to start this case immediately. In all the circumstances, I propose to grant an indulgence and take this case up from tomorrow, but the plaintiff will be entitled to the costs of today.

(Sgd.) N. SINNETAMBY,
A. D. J.

20
15-12-47.

175/ZL

16th December, 1947.

MR. ADV. HAYLEY, K.C., with MR. ADV. KURUKULASURIYA, for plaintiff.

MR. ADV. GRATIAEN, K.C., with MR. ADV. HERATH, for the 1st defendant.

MR. ADV. C. E. S. PERERA instructed, for the 2nd defendant.

Mr. Gratiaen mentions to Court that he has no objection to the case of the plaintiff proceeding and being concluded. With regard to the 1st defendant, as the 1st defendant is ill, she cannot be called until she is in a fit state to attend Court. She is suffering from an infectious disease. He does not want to take on himself the responsibility of calling any of the witnesses before the 1st defendant is called, and he wants to have the 1st defendant by him in Court so that he may, if necessary, take instructions from her in the course of the proceedings. He has no objection whatever to the case proceeding up to that stage. He also states in the exercise of his discretion he proposes to call the 1st defendant first before calling witnesses who would in the main be corroborating her evidence.

I indicate to Mr. Gratiaen that the basis on which the application for a date was made yesterday was not the same; it was on some other ground, and I further stated that in view of the facts submitted I certainly would postpone the case as indicated yesterday when the time come for the 1st defendant to be called.

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—continued.

Mr. Hayley states that he will be closing his case with the witness who is in the box, but if the Court is going to grant a postponement he might be calling some other evidence, and he asks that if the case is to be postponed, that it should be postponed immediately.

In these circumstances I allow the application for a postponement. Trial postponed for the 9th, 10th and 25th of February and the 5th, 12th and 15th of March.

Mr. Gratiaen leaves Court with permission as he is before the Supreme Court.

Mr. Hayley asks for costs for the four days, today till Friday. 10

Mr. Herath says he cannot resist that application.

I allow the plaintiff costs for the four days.

(Sgd.) N. SINNETAMBY,
A. D. J.

16-12-47.

D. C. 175/ZL

9th February, 1948.

Appearance as on the last date.

Errors corrected by Counsel.

K. RASANATHAN recalled, affirmed.

XXD. (by Mr. Cyril E. S. Perera)—contd.

I generally go for a change during the Court vacation. In 1946, the 20 year in which the deed was signed, I said I had been to India twice and to Jaffna once, and perhaps I paid an extra visit to India in June. I remember going to India in June. There was a client of mine in India. I was preparing a Privy Council case of his and in connection with that matter I went to India. My visit to India, except in December and August, 1946, was on business. The duration of my visit in June was four days. I went to Jaffna both during the Easter holidays and during the week-end this deed was executed. I was there for about fifteen days in Easter; during the holidays. In the year 1946, the 18th of April was a Thursday. I do not know whether the Court vacation started on the 30 18th April. I must have gone on Maundy Thursday. I came back on the 16th and went again on the 18th, Thursday. It is likely that on the 12th April I went by car with my children, left them there and came back because I had to attend to professional work. Again I went on Maundy Thursday by train, Maundy Thursday was the 18th. I have no note anywhere to refresh my memory that I went on the 12th. When I say I went on the 12th I am speaking purely from memory. Purely from memory I cannot say what work I did on the 12th April. Whatever work I did must be there on record.

I know the proprietors of Sri Ambis Cafe. They are not my clients. 40 Money was borrowed from a client of mine.

I told the Court on the last occasion, if I remember aright, that I went to Jaffna about 10 or 11 a.m. by car. That was after the execution of the deed. I said "about 10 a.m. or 11 a.m."—it may be even later. It was about noon that I left. After my cross-examination began on the 4th I have not verified what notarial work I did on the day I left. Any work I did, I must have done before I went. I remember attesting a power of attorney for an Afghan on that date. That must be in the morning. I delayed my journey as I had to execute some deeds and powers of attorney on the 12th. When I leave by car I generally leave 10 early in the morning at about 2 or 3 o'clock. As I had work I had to delay the trip.

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—continued.

This client of mine who lends money generally wants a warrant of attorney to confess judgment. For that purpose I had to get an independent proctor. I remember getting an independent proctor on that day and a warrant of attorney was executed along with the bond immediately after the deed. I cannot say whether that was executed in Hultsdorf or in my bungalow.

Q. Could it not be possible that you left in the afternoon of that day? A. I could not have left late because I could not have gone to 20 Jaffna so soon.

Q. Quite apart from that inference is it not possible that you may have left late in the afternoon? A. It is not likely. Apart from that inference I cannot remember at what time I left.

Q. I suggest to you that the probabilities are that you left by car on the 13th morning as you were so busy on the 12th? A. I am sure I went on the 12th. The 13th was a Saturday.

Q. Was it not much more likely that you left early on this Saturday morning? A. No, I left on Friday.

There is no possibility whatever of my having left on the Saturday 30 morning. I came back to Colombo on the 16th. That is, I came by train and arrived at 6-30 a.m. I left Jaffna on Thursday by the night mail. I could not have done anything after that until I returned from Jaffna. I returned from Jaffna towards the end of April—25th or 26th.

I really cannot remember the date. I cannot be definite—might be any day after the 24th or 25th April. I returned in April, not in May.

I mentioned to my client on the 16th April itself what Mrs. Antony told me. I told him on the evening of the 16th. I did not meet him after that. I told him that I was going away, that I could not get a copy of the deed and that when I came back I would attend to that.

40 Q. According to the evidence last time, before the 12th April, Mrs. Antony had transferred everything that there was in her name either to the son or the grand-daughter? A. I don't think I said that,

Q. Is it so? A. It is not so,

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—continued.

After this transfer, Mrs. Antony had some properties in her name. She had a property in Haputale or Diyatalawa and some small properties in Mutwal. (Evidence of witness on last date put to him). Mrs. Antony devised all her properties that she got from her husband, by that deed in favour of Imelda the 1st defendant. I said in answer to Court that apart from the properties which she acquired by inheritance from her husband she had no other properties after she executed the deed in favour of her son. What I mean is, she had no other properties from her husband. When I said that she had no other properties after she executed the deed in favour of her son, I meant no other properties which she inherited from her husband—that is, acquired by her by transfer from her husband prior to his death. What property she got from her husband, she transferred the entirety of the gift she got from her husband to her son. Those were the valuable properties in the Pettah and Fort. After she executed this deed in favour of her son the specific properties she had that I know of were Kahagolle in Diyatalawa and six small properties in Mutwal, I do not know in what Street in Mutwal. After she executed the deed in favour of her son and her grand-daughter she did not ask me to transfer any of those properties to anybody at that time, She gave no instructions for the preparation of a deed in respect of those properties or of any other properties. She gave instructions only in regard to the power of attorney.

Q. I put it to you that the power of attorney was obtained on the 16th because the son suspected that his mother would transfer her properties? A. She wanted it done.

Q. I put it to you that it was the son who wanted it done? A. No.

Q. I put it to you further that it was the son and not the mother who got vague news that his mother had executed a deed? A. No.

Q. I put it to you further that it was not the mother at all but the son who instructed you to go and search the Registers to find out whether there was any deed executed? A. No, it was the mother, not the son.

Q. I put it to you that when you went to the Land Registry you went there on behalf of the son to make the search? A. No. Subsequently I went there on behalf of the son.

Q. And to find out whether the old lady had dealt with Whist Bungalow and Madampitiya properties? A. When I returned from the holidays, in April or May, I went along with the son in his car.

I have been asked to produce the first search. I have not been able to get a certified copy.

Q. I put it to you that you made no search till the 2nd of May, 1946? A. I deny. I have told the Court already that I cannot search a deed which is tendered on that very day.

To Court : Even for encumbrances I made no search because I knew that the deed had not gone into the book. When a deed is submitted it takes about a month to get into the book.)

(Mr. Perera marks as 2 D1 certified copy of an application for search of Land Registers made by the witness on 2nd May, 1946.)

(Shown 2 D1): I made this application on instructions from Simon Stock Antony. The reason I gave was "to draw and attest a deed". That is the usual form in which an application is made. At that stage there was no deed to be drawn and no deed to be attested.

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Evidence
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—continued.

To Court: Generally we say "to draw and attest a deed" even if it be for looking into encumbrances or reporting on title.)

We use this phrase to cover everything. When I said that, I had no intention to draw and attest a deed. I could have searched the Registers without saying that. I could have said "to report on title" or something like that.

(To Court: If I had stated in my application that I wanted to find out whether a deed has been executed in respect of this matter they would not have allowed a search. Even if we say "the mortgagee instructs us" they would not allow. The owner must instruct us. In the olden days we paid only 50 cents for an application "to draw and attest" and for any other application Re. 1. Now it is Re. 1 for any application—since four years back. In those days it would have paid us to say something that was not true because it would have meant less payment.)

Q. Why did you not say that you wanted this search on behalf of Mrs. Antony? A. I went with Simon Stock Antony. They would not have allowed us to do this search unless I put this formula. At this stage Mrs. Antony had drawn a deed of gift, she had signed the deed, I knew it. On the 2nd of May when this application was made she had no rights to property. The only reason why I said "on instructions from Simon Stock Antony" was because I went along with him.

With regard to the events of the 16th I do not know whether Peiris is being called to corroborate me that he showed me this deed. I got the information from him. I did not tell plaintiff's proctor that I went on information given to me by Mr. Peiris of the Land Registry. Before I gave evidence in this box on the last date I did not tell the proctor for plaintiff that I went on information given to me by Mr. Peiris. I told Simon Stock Antony the plaintiff's son that I got this information from Peiris. I told this to him on the 16th itself. Peiris lived in Mutwal. This was known to the plaintiff's son. On the last date when I gave evidence I thought Peiris was transferred to Kurunegala. I know now that he is in Kurunegala.

I said that I sent my clerk to Modder's on the same day. I told that to the plaintiff's proctor. I have already stated that I told the plaintiff's proctor that I did not go to Modder's but sent my clerk.

(To Court: I told them so at that stage.)

I do not know whether the clerk was telling an untruth when he told me that Mr. Modder was in Colombo. That is what the clerk told me, I believed the clerk.

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Plaintiff's
Evidence
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Examination
—continued.

There are two documents referred to in my application 2 D1. One document shows that I searched for encumbrances in respect of Whist Bungalow (Mr. Perera marks this document 2 D2). The other document (marked 2 D3) shows that I searched for encumbrances in respect of the Madampitiya properties. It also shows that I searched for references in regard to connected properties. At that stage I was not trying to find out whether any deeds had been executed. I deny that. To get the work done quickly I made that routine statement "to draw and attest a deed" whether it is true or not. I do not attach much importance to that statement. I am required by the Notarial Ordinance to state specifically the purpose for which I am making a search. There is a question in the application form: The purpose for which the search is being made? I cannot say that I am expected to answer that question truthfully. It is not a question of truthfulness. The idea is that no person who is not interested shall have access to the Registers that is why that provision is there. There is another question in that form, that is, whether I am searching as Notary or as Proctor. The answer to that question will show what interest I have in the search. I admit I am expected to answer those questions truthfully, but I do not attach much value to them. When it is a question of getting a job done quickly for a client it does not matter how I get the job done.

Q. Your object then was not to comply with the requirements of the Notarial Ordinance but to get the job done for your client as quickly as possible? **A.** There was no prejudice caused to the Crown. That is the only point in the search.

My client at that stage was not Simon Stock Antony. He joined Mrs. Antony in the consultations we had. For that particular job, that is for searching encumbrances my client was Simon Stock Antony. The search was made to see whether Imelda had transferred the properties to a third party. That search would have been utterly useless to ascertain whether Mrs. Antony had transferred any property to Imelda because I knew that fact. If I did not know on the 16th that there had been a transfer then this search would have been useful to find out whether Mrs. Antony had transferred any property. The object of the second search was purely and simply to ascertain whether the 1st defendant had made any transfers. I made that search at the request of the plaintiff's son. There is nothing in writing to show that I had at any time instituted a search on behalf of the plaintiff herself. The object of ascertaining whether Imelda had been transferring any property was because an action had been filed, *lis pendens* had been registered, we had to know whether any property had gone to third parties and we had to make those parties, parties to the action.

Q. Do you know that the evidence in this case is that far from registering *lis pendens* Mrs. Antony took Imelda out of the convent on the 19th of May? **A.** There was a stage when they were trying to settle up matters. I was also asked by Mrs. Antony to draw a deed of re-transfer. I do not know about Mrs. Antony herself taking Imelda out

of the convent on the 19th. I know that Mrs. Antony went once or twice to the convent. I do not know the dates.

I did not make that particular search as a proctor for the purpose of registering *lis pendens* or for filing action.

(To Court : If I had stated in 2 D1 that I was making the search, as a Proctor in order to register *lis pendens*, and so on, they would have allowed the search.)

Q. Why was it not possible for you to state that you were searching this encumbrance on behalf of Mrs. Antony? A. I went along with 10 S. S. Antony, so I thought I had better put his name.

Q. Do you realise now that I am entitled to attach much importance to the fact that you searched on behalf of S. S. Antony and not the mother? A. I don't realise that now.

The most important asset C. S. Antony had was the firm of C. S. Antony. That firm had a goodwill. At that stage he had suffered severe losses. C. S. Antony & Co. is a firm known all over the Middle East, particularly East Africa, and some parts of Europe. Among the natives of the Island C. S. Antony was recognised as one of the leading exporters of tea. Among the Ceylonese exporters of tea he exported the largest 20 quantity. I do not know whether he had an almost exclusive market in the Middle East for tea. Neither the goodwill nor the assets of the Company are inventorised in the testamentary case of Chevalier Antony.

(To Court : I got a report with me from the Auditors that as the company had suffered severe losses there was no value in it at that time. He had been sued for 3¼ lakhs in this Court and decree has been entered against him.)

In spite of these losses C. S. Antony's son is carrying on that business on his own. I don't think he paid anybody for the goodwill of that name. He has now registered the company in his own name ; that is, immediately 30 after the death of C. S. Antony. (Mr. Perera marks the Business Registration Certificate as 2 D4.)

Certain properties in Alutmawatte Road had been transferred to the 1st defendant by her grandfather for valuable consideration, that is, her share of the insurance money of her father. That was ancestral property, therefore the grandfather gave a transfer to her. The Rs. 20,000 insurance money was divided—there were some debts—1st defendant got Rs. 6,000. Those properties are her own exclusive properties. That has nothing to do with the estate or with the cases. My client in the testamentary case is the plaintiff's son. He is the administrator. My client 40 is taking the rents and income of those properties of the 1st defendant also. He has not handed them over to the 1st defendant.

Q. He has not handed them in order that she may have no funds of any kind for this case? A. I do not know the object.

1st defendant has not got any money from the testamentary case. I do not know whether payments have been made on behalf of her by her grandmother.

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—continued.

Q. When the 1st defendant wrote through her proctor for rents and profits you were instructed to write back and say they were appropriated for testamentary expenses? A. I do not know. I must see the letter. I remember writing a reply that there were some dues and therefore the incomes were being set off against those dues.

I know nothing about a criminal case. I was not consulted about it.

Q. Have you any independent recollection of what use was made by the plaintiff's son of the rents and profits of Imelda's own properties? A. She had drawn some money—some money was due to Antony from her, therefore this money was set off—money drawn from the testamentary 10 account. She was living with her grandmother, she was being bought sarees and other necessaries. I have no statement of that account. I do not say that the 1st defendant was charged for maintenance. I cannot say that she was charged for clothing. I do not know what charges were made. I have no independent recollection of why her money was kept back from her apart from the instructions given to me.

(Shown a letter marked 2 D5): I wrote this letter on the 30th August, 1946. The only independent income she had was the income from these properties bought with her late father's insurance money. I know that that income was being appropriated by the administrator. No account 20 has been rendered to her up to date. The testamentary case is not yet closed. None of these monies is deposited in the testamentary case. There is no money to deposit. I have made no deposit in the testamentary case. The incomes have not been paid by the plaintiff's son because he said there are monies due. I remember I paid Rs. 30,000 by way of estate duty; income tax and stamp fees were paid; there is excess profits duty Rs. 65,000 yet to be paid. The estate is responsible for these payments.

(To Court: I admit 1st defendant's properties are her private properties. This is what I was instructed to write. That is wrong. I cannot 30 justify that.)

I advised my client that this is not correct.

I stated that I went to India in June, 1946, with a client. That client was not the plaintiff's son nor Mr. Jayasekera. I have never been to India with either of them. I was not instructed at any time to get in touch with Menon.

I said there were certain lands left with Mrs. Antony after these gifts. I do not know whether those lands have been transferred to her son. I did not attest any deed of transfer in respect of those properties.

(Lunch interval.)

(Sgd.) N. SINNETAMBY,
A. D. J.

40

After lunch.

K. RASANATHAN affirmed (cross-examination—contd.)

2 D6, Deed No. 670 of 12th April, 1946, attested by me is the power of attorney. This was attested by me at Hultsdorf; that day I must have come to Hultsdorf.

2 D7, Deed No. 671 of the same date is a mortgage bond attested by me.

2 D8, No. 672 is a warrant of attorney to confess judgment addressed to Mr. S. A. Nalliah attested by me and Mr. C. D. Thillaiwasan.

Independently of these documents I can say I arrived at Jaffna at about 10 p.m. leaving Colombo at about 11 a.m. or 12 noon, and had dinner at home.

I have no recollection of plaintiff asking me some time in the beginning of April for a copy of the deed executed in favour of her son ; if she did ask I would have given it to her.

Q. Do you remember a conversation with the plaintiff in which she asked you for a copy of this document ? A. I do not remember any such conversation. I remember I talked to the 1st defendant and Mrs. Antony one day. At that conversation I have no recollection of having remarked that plaintiff's son had six children ; my conversation was with Mrs. Antony. This conversation was after the attestation of the deed in favour of plaintiff's son transferring the Fort and Pettah properties, in the latter part of February ; how long after that attestation I am unable to say ; I can only say it was before the 12th April and after that deed was attested ; it might have taken place at the end of March. That conversation was about the proposal of marriage of the 1st defendant ; it had nothing to do with this deed ; and it took place about 6-30 p.m.

(To Court : Q. Was that the only occasion on which you had a conversation with plaintiff when the 1st defendant was present ? A. Yes.)

Q. Did you even in general tell the plaintiff or did the plaintiff ask you what properties she had given away to her son and what properties were left ? A. Yes, I told her that only the properties mortgaged with the State Mortgage Bank were transferred to him at her own request—Ferguson Road properties and Pettah and Fort properties. I do not remember whether I gave her a list of the properties.

At that time she did not tell me that she must make provision for her grand-daughter. If she had asked me for a statement of the properties transferred I would have given it. I did not ask her why she questioned me about this. I do not recollect having given her a statement. She never told me at any time that she was going to make provision for her grand-daughter. I told her that pending the administration case nothing could be done, when she asked me when she could divide these things up, may be among her son, grandsons and grand-daughter also. I remember to have said that ; that was before the deed was written in favour of her son. This was in regard to the properties that did not come into the administration case.

Q. Did she indicate to you in the course of that conversation what kind of division she had in mind ? A. No.

(Shown 2 D9). This is in my handwriting. This is a list of the property that was left to the plaintiff by intestacy which I had given her

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nathan
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at her own request. I would not deny it if it is stated that I gave this list at the end of March. I cannot recollect that she wanted this statement because she wanted to gift any properties to her grand-daughter. I cannot even recollect why she wanted it; she did not tell me. It was usual for her now and then to get information from me in connection with payment of estate duty, closing of the administration, etc. She was aware what properties she had given to her son and therefore she would not have asked me what those properties were. I have no recollection at all why this list was given.

I remember one Lewis Mendis living in Whist Bungalow, a nephew 10 of the late Mr. Antony. I am not aware that his son was one of the original witnesses in this action. I was not instructed to interview either Lewis or his son in regard to this case. After this case was instituted I sued Lewis Mendis on a Promissory Note—whether it was inventorised or not I do not know. He filed answer and paid the amount. He was not occupying Whist Bungalow; he was living in one of the houses attached to Whist Bungalow. I filed action on behalf of Lewis Mendis to get a tenant of his out of a house which he owned at Modera Street. Lewis Mendis left plaintiff's property only last month; I do not know how long he lived there, nor do I know whether he was employed by the late Mr. 20 Antony, nor whether his son has come as a witness in this case. Mr. Antony jnr. asked Lewis to take oath and say that money was not due from him, and he did so, and the action against him was dismissed.

K. Rasana-
than
Re-
Examination

Re-examined by Dr. Hayley. I stated that Stock Antony went away some time in 1942 from Colombo; he was away for some months in a village called Kehelwatte and used to come to Colombo off and on to attend to his father's affairs.

(Counsel refers to the evidence): "After transferring those properties to her son I do not think she had any other properties in her name.....". (Shown deed P3 dated 24th February, 1939). This is 30 really one property in two portions which was gifted by C. S. Antony to his wife subject to a *fidei commissum* in favour of the 1st defendant, and valued at Rs. 20,000.

(Shown P4, Deed No. 144 of 24th February, 1939). This was conveyed by Mr. Antony to the plaintiff subject to the condition that on her death it was to go to Stock Antony—five properties in all valued at Rs. 35,000.

(Shown P5). This is Deed No. 145 of 24th February, 1939, executed by C. S. Antony in favour of the plaintiff, an absolute transfer of eight properties valued at Rs. 25,000. 40

The declared value of the properties dealt with in these three deeds is Rs. 80,000.

(Shown P6). This is Deed No. 165 dated 26th June, 1939, executed by C. S. Antony in favour of the plaintiff, two properties valued at Rs. 47,000 and subject to a mortgage of Rs. 45,000.

(Shown P7). This is Deed No. 166 by which the late Mr. Antony transferred to Mrs. Antony three properties valued at Rs. 103,000 subject to a mortgage for Rs. 100,000. It is dated 26th June, 1939.

The total gross value of the properties transferred to Mrs. Antony on P6 and P7 is Rs. 150,000, less mortgages Rs. 145,000.

(Shown P8). This is Deed No. 657 of 28th February, 1946, by which the plaintiff conveyed to her son Stock Antony the above properties dealt with in P6 and P7 subject to the same mortgages in favour of the State Mortgage Bank. They were then valued at Rs. 200,000 and of the 10 mortgages of Rs. 145,000 a sum of about Rs. 20,000 had been repaid.

(Shown P9 and P10). These are mortgage bonds. The payments recorded here are on account of principal and interest.

P13 is an extract from the accounts which shows the amounts settled and paid on the above bonds.

Under document P8 nothing more was conveyed to the son except those properties dealt with under P6 and P7. As far as I am aware the plaintiff had not conveyed anything else to Stock Antony. Mrs. Antony still owned the properties dealt with in P3, P4 and P5 and had not conveyed them; on P3 and P4 she had only a life-interest. My statement 20 to the effect that she had nothing left is not quite correct because she had an absolute transfer in her favour by P5.

At one time there was some displeasure in the house between Stock Antony and Imelda. I knew there was a party but I was not here at that time in December, 1945. I knew Stock Antony had not approved of the marriage proposal with 2nd defendant's son and there was some trouble about it.

In regard to the increase of property values, in my experience as a Notary I had discovered that prices of properties have risen by about 200 per cent. and the increases are greater in the case of residential pro- 30 perties and where possession could be obtained immediately.

(Shown P8). The transfers by this deed to Stock Antony were subject to a *fidei commissum* in addition to the mortgages. He got under this deed property worth Rs. 200,000 subject to mortgages at that time of Rs. 145,000. The rise in property prices up to 1946 applicable to these would not make it possible for anyone to say that Stock Antony had been given Rs. 7 lakhs worth of property.

I had drafted a Will for the late Mr. Antony but it was not attested by me; he asked me to send him a draft on certain lines and I sent the draft and the copy. I found later when we opened the safe that he had 40 signed it and I had not attested it; I had not received instructions; it was not signed in my presence. It had in fact been witnessed by one person. (Shown P15). This is the actual draft I made and I see here Mr. Antony's signature.

(Counsel draws attention to the evidence: "The first consultation which she had with me she told me the deed was.... ..that there

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—continued.

were two proctors there ") This is her account on the 16th April of what took place. On the 16th morning when I saw her she told me that on the previous Friday she was taken to Dr. Van Dort's house and there asked to sign a document, and after certain threats made to her and the parish priests coming along, she had to sign it.

I stated that Mr. Mack wrote to me a letter in May for the first time on behalf of the 1st defendant and I replied to it. I produce P16 of the 16th May to Mr. Stock Antony from Mr. Mack ; this is the letter which I had in mind. It was not addressed to me but to Stock Antony and I replied to it. P17 is the copy of the reply I sent, dated 21st May, 10 1946.

(Mr. Adv. Herath marks the original of the reply, which he says is dated June and not May, 1 D4—the same as P17 but the date different.)

I referred to a document (2 D1) referring to the registration numbers. I said after I got the information from the Land Registry in April plaintiff sent for her brother who was living about 50 yards away and in the office the power of attorney was signed. The discussion had taken place before my formal application to inspect the deeds.

In regard to Mr. Antony's business, when he died in 1943 there was no export as there was no freight, Government being the sole exporter. 20

(Shown 2 D9). This piece of paper was obtained from the bungalow itself and written there. I have no recollection of having handed it over to a particular person ; it must have been given to Mr. Stock Antony, Mrs. Antony or Imelda. All I can say is that this paper has been obtained from the house.

(Sgd.) N. SINNETAMBY,
A. D. J.

Mr. Hayley closes his case reading in evidence P1 to P17.
Further hearing on 25th February, 1948.

(Sgd.) N. SINNETAMBY, 80
A. D. J.

No. 7

No. 7
1st Defen-
dant's
Evidence

1st Defendant's Evidence

175/ZL

25-2-48

Appearances as before except that ADV. DISSANAYAKE appears for 2nd defendant.

Errors in previous day's proceedings corrected by consent.

Adv. Kurukulasuriya states that the sentence reading " When it is a question of getting a job done.....it does not matter how I get the job

done" was not made by the witness. The question was put in that form and the answer was "No". This is not agreed to by Mr. Herat for the 1st defendant. In the circumstances I leave it as it is.

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1st Defen-
dant's
Evidence
—continued.

Mr. Herat calls :

MARY IMELDA DE ZOYSA sworn, 23 Park Avenue, Borella.

Mary Imelda
de Zoysa
Examination

I am the first defendant. My grandfather was the late Mr. C. S. Antony ; plaintiff is my grandmother. I am the only child of plaintiff's daughter who died when I was very young. My mother was married to the late Mr. Hugh Weerasekera. Some times after my mother's death
10 my father married one Miss Wright. When my father died my stepmother married Dr. Van Dort ; she is now Mrs. Van Dort. I cannot remember my mother's death. From the time I can remember I was brought up with my grandfather and grandmother, the plaintiff. My father was also living with my grandparents earlier. When I was 15 years old I went to live with my father at Pedris Road when he was married to his second wife ; that was because it was closer to St. Bridget's Convent where I was a student then. When I was living there I used to visit my grandparents during the week-end regularly. I was at Pedris Road for a year at the end of which I came back to my grandparents and continued to attend
20 St. Bridget's from Mutwal by car. My father died about that time, when I was 16. From that time I was living more or less continuously with my grandparents who were very fond of me. I grew up like their own daughter. Anything my grandfather wanted he used to get me to do. I helped in the management of the house. Whenever house rents were brought by Mr. Mendis who was working under my grandfather, and the office happened to be closed then, I used to receive the house rent, count it and put it in the safe till it was handed back to the office the following day ; these were rents of properties belonging to my grandparents. My grandfather had an office in the bungalow where he had clerks employed ;
30 the office closed at 5 p.m. When rents were brought after this hour it was I and not my grandfather who took charge of it till it was handed over the following morning. My grannie used to manage the household, sending servants to the market, etc. Grandfather had an office in the Fort before the War which he used to attend daily. Apart from receiving rents I used to attend on grandfather in his room, to his personal comforts like bringing him tea, etc.

Grandfather had an iron safe in which he kept money, deeds and valuable documents. There was a button fixed at the centre of the safe. Nobody could have opened the safe with the key if he did not know how
40 to press the button and when to press it ; normally grandfather opened that safe ; apart from him only I knew how to open it ; grandfather had shown me how to. While opening with the key the button had to be pressed at a particular time when the key was in a particular position ; pressed at any other time it would not open. A person who did not know the mechanism would not know how to open the safe. This button was like a nail in the middle of the safe with other similar nails around. It was a secret device,

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dant's
Evidence
Mary Imelda
de Zoysa
Examination
—continued.

I remember the time grandfather died. Some time after his funeral, a day or two later, my uncle wanted to open the safe ; Proctor Rasanathan was also there ; when I went into the room they both were trying to open it but were not successful. My uncle wanted me to open it and I showed them how to open. There was a silver rupee in the safe which my grandfather used to say was a lucky one and I walked away with it.

My uncle Stock Antony was also living with his parents when I stayed there after returning from my father's house. Then my uncle was all right with me.

Q. Did he show any change in his feelings towards you at any time ? 10

A. Sometimes he used to have a little quarrel, both before and after grandfather's death. If his children were asleep when I played the piano he used to get angry and scold me. He did that mostly when grandfather was away ; when grandfather was in, he would not try all that because he was afraid of his father. There are lots of other instances. For instance, when I planted plants in a flower bed he would come and uproot all the plants and throw them away. He did not want me to have any pleasure out of it. There was a large garden in the premises. He did not behave towards me as a kind and affectionate uncle even during my grandfather's time. 20

During the raids in April, 1942, my uncle went away to Kehelwatte. I remained with my grandparents till about a week after the raids. Then my grandfather took a separate house. After about two weeks we came back to Whist Bungalow because grandfather was not feeling too well. My uncle remained at Kehelella and we continued to stay at Whist Bungalow. Then grandfather fell ill the same year ; by this time my uncle had shifted to Gampaha. He did not come to reside at Mutwal when grandfather was ill. Grandfather was ill for two or three months before he died in May, 1943, may be six or seven months. I looked after him in his illness with my grandmother. Some times grandfather was a good 30 patient, some times he used to get into a temper but he was not bad at such times. There was a male nurse attending on him, grandfather did not want him. I used to give him his medicines and his food. This continued till his death. My uncle came back to Whist Bungalow a few days before his death when I sent for him because the doctor said one day that grandfather would not live till next morning. Messages had to be sent to my uncle to Gampaha whenever grandfather took a bad turn, and then he would come ; but he did not reside at Mutwal. Then grandfather died a few days later. After the death uncle became boss of the whole 40 place, and he used to quarrel with me and grannie over such incidents as when grannie did not want uncle's brother-in-law to come home, or when grannie asked him questions about the properties. On such occasions he got into a violent temper, behaving like a mad man, throwing things about, and even trying to beat grannie. He did not try to beat me. He only scolded me. He asked us both to get out of the house on such occasions. When grandfather was alive I was an important person in the

household and servants took orders from me. With grandmother I was mistress of the house. After grandfather's death he did not want any servants, even our own servants, to do any work for us.

Q. Did you feel like a stranger in someone else's house or like a respected person in your own house? A. I felt like a stranger. I heard uncle asking the servants not to do work for us.

My grandfather had two cars; after his death my uncle used them. Whenever we wanted a car we used to get it very seldom with much asking. Before grandfather died we could get the car whenever we wanted
10 it.

After grandfather died grannie spent for the household.

Q. Did she also have to go to your uncle for it? A. I suppose so.

All along my grandmother was fond of me; we were like mother and daughter. When my uncle treated me in this way grandmother used to scold him. She would say "You killed your own sister; are you trying to kill the only one I have now?"

I am now married to Mr. Aenian de Zoysa. The idea of marriage was first put to me about October, 1945, some time after grandfather's death; grandmother spoke to me about it. She told me "There is a nice boy to
20 whom you could get married". I asked her who he was. She said it was uncle Oliver's son. I told her I would like to be introduced to the boy before I made up my mind. I had seen him before but not spoken to him. I had met him at various functions. This was the only remark I made to grandmother about the matter. She told me "You will never get a better man if you lose him; he is of the same religion and of the same caste". She liked it.

I decided to get married early in 1946 and got married on 28th June, 1947. There was a party at Sir Ernest de Silva's on 1st January, 1946, when he was knighted. I attended the function with uncle and his wife;
30 grannie did not go as she was not well. At that party I met the 2nd defendant and also the Van Dorts. I also met my husband there and spoke to him. At my request Mrs. Van Dort introduced him to me and I spoke to him. After the party we were asked to wait for dinner, and also the Zoysas. I came to know Aenian very well on that occasion.

After that about the end of January, 1946, the Zoysas were invited by my uncle to Whist Bungalow for a boating party. I knew Mr. Oliver de Zoysa for a long time as he used to visit us when my grandfather was alive. He was so friendly with my uncle Stock Antony. When grand-
40 father was ill Mr. de Zoysa came once or twice to see him. After the party whenever my uncle called for him he used to come to Whist Bungalow; they were friendly. But late in January, 1946, after the boating party my uncle became nasty towards me—I mean hostile—over something in connection with his wife. After this it was terrible living in Whist Bungalow. My granny was aware of it. My uncle used to scold

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dant's
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de Zoysa
Examination
—continued.

me in dirty language quite frequently those few days. I gave him no cause for it. He hated the very sight of me. Grandmother was aware of it. She also was treated almost in the same way.

Grandmother then wanted me to go to a convent and be a boarder ; she wanted me to find out whether there was accommodation in the convent ; I telephoned to Mrs. Van Dort and asked her to speak to the Nun and find out if there was room at St. Bridget's ; no room was available and I told that to grandmother. Then she asked me to ring up Auntie (Mrs. Van Dort) and ask her to take me to her place. I always liked Mrs. Van Dort even when father was alive and she in turn was fond of me. I 10 telephoned to her accordingly, and she came home. Then granny cried and told her what had happened and asked her to take me away as she was afraid to keep me there. I went with Mrs. Van Dort to her bungalow at Bambalapitiya. This was early February. While I was at Bambalapitiya granny came there and saw me every Tuesday on the pretext of going to St. Antony's Church ; otherwise she would not get the car. I was at Bambalapitiya about two months.

I know Dr. Van Dort very well. When I was there one day he asked me whether I knew what I was getting out of the properties. I told him I did not know anything. He said he did not trust my uncle and the 20 best thing would be to consult a proctor, he would take me to a good proctor. I told him I must ask granny first. One day granny rang me up and said uncle and family had gone to Gampaha and asked me to come to Whist Bungalow and see her. I went there along with Mrs. Van Dort and told granny what Dr. Van Dort had said. Granny also said it was best to consult a proctor about my properties. She also did not know anything about these matters because uncle never told her. She did not trust my uncle either.

We came back to Bambalapitiya and shortly afterwards with Dr. & Mrs. Van Dort I went and consulted Mr. P. D. A. Mack in his bungalow. 30 The doctor explained matters to Mr. Mack, I also spoke to him. Mr. Mack said he would find out and let me know the position. Later Mr. Mack came to Dr. Van Dort's and said what were the properties in grandfather's estate. I asked him whether they were the only properties he had and told him there were some properties in the Fort and in the Pettah. Mr. Mack said they were not in the list. Later he had verified and he came back again and told us the Fort and Pettah properties had been gifted by my grandfather to my grandmother and she had given them over to uncle. When granny came there the next Tuesday the doctor asked her whether 40 my uncle had got her to sign any documents, and she said yes. He asked her whether she knew what she signed and she said she had been told it was something in connection with the business. Then doctor told her she had signed away the Fort and Pettah properties to uncle. Grandmother was very surprised and angry about it. She said she must go to Court about it. There were at this time aunty, Dr. Van Dort and I, with granny. The doctor asked her not to do that, it would not be easy to get them back, but he said my uncle might take the rest of the property

too from her and asked her to be careful of what she signed, and before she signed get someone to read it out and explain to her. Then my grandmother went away. This must be about the middle of March, 1946.

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After that granny came and saw me at Dr. Van Dort's about the beginning of April. She called me home for the Easter season and I went back to Whist Bungalow early in April. On the 10th April I saw uncle and Mr. Rasanathan in uncle's office in the bungalow having some papers before them. Just then Dr. Van Dort happened to ring up. I went to the 'phone and told him there was sure to be trouble and got him
10 to ask uncle Oliver to come. I suspected trouble when I saw those papers with uncle. I used to call the 2nd defendant (Oliver de Zoysa). "Uncle" even before I came to know my present husband. Then my uncle (Stock Antony) sent for granny, who happened then to be in the kitchen, and for me. Granny went, but I did not; I stayed in the adjoining hall from where I could see what happened. Uncle asked granny to sign some papers. Granny refused to sign saying "I have been tricked once, I won't be tricked again" and she came out. Uncle followed her and dragged her by the arm; still she refused to come. Uncle as usual kicked up a big row. Proctor Rasanathan tried to stop him and his coat was
20 torn in the attempt. After some time Fr. Bourgeois came, I do not know how; he was speaking to uncle in the office room; then he spoke to granny in the next hall; he spoke to uncle again and went off. I saw this; this was on the 10th April. After that about 4 p.m. the same day my uncle tore off the papers. Later in the evening uncle Oliver came there about 6 p.m. and spoke to me. (Counsel states Mr. Oliver Zoysa will be called). I told him what happened that day. He could not speak to my granny because she was in the room crying. And Oliver Zoysa went away.

On the morning of the 11th April I heard the telephone ring and uncle scolding someone over the "phone". I guessed it must be Mrs.
30 Van Dort. Then my uncle sent word to Edith (a relative living nearby) that if Mrs. Van Dort came there again he would shoot her; so saying he brought a gun out and cleaned it; I saw it. Then uncle Oliver came on the evening of the 11th about 6-30 p.m. I remember granny called me saying he had come; he was seated in the office room. He said the gate-keeper would not allow him to come, but he pushed the gate and came as it was not locked. Granny told him that she must send me away and asked him whether he could not take me away. He said it was impossible to do that the same evening, he would come for Mass to church the next
40 morning and from there take me away. He also asked granny to keep the deeds ready, the deeds about which she had spoken to Dr. Van Dort. The next morning I knew I was leaving home. After uncle Oliver left that evening granny wanted the key of grandfather's room to take out a suitcase and also my mother's jewellery. The key was not in the usual place and knowing uncle had taken it she sent word to him, but he refused to give the keys. Later he threw the keys into the room. Granny opened grandfather's room, opened her safe—she had a safe too—took the jewellery out and some money and the suitcase and took them into her

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room where the clothes were packed. It was impossible for us to take the jewellery away, so granny kept them in her own almirah and locked it.

On the 12th morning granny and I went to St. James' Church about 6-30 a.m. on foot. Granny carried her handbag and veil and I carried my prayer book and veil and also granny's prayer book. After service we came to the church verandah. Uncle Oliver had sent a car with an Excise Guard. I was not looking for him, but he came. I expected the car; the Guard said the car was outside. Granny said she wanted to speak to Fr. Bourgeois. Fr. Bourgeois came along and she told him she was taking me to the Van Dorts. Then we went off. The suitcase was 10 left at home as we could not carry it to church; later granny sent it to Bambalapitiya. When we went to church my uncle was walking in the garden.

On our way to Bambalapitiya granny wanted to see uncle Oliver, I asked the Guard where we could see him, he took us to some place in the Pettah where granny spoke to uncle Oliver and asked him to come to Van Dort's. He said all right. At about 8-30 a.m. we went to Van Dort's; there were the doctor, his son and Mrs. Van Dort. Later on uncle Oliver arrived at about 9 a.m., alone. After that Proctors Mack and Modder came, I do not know how. The proctors were speaking to 20 granny in the verandah and Mrs. Van Dort and I were in the hall adjoining. I know the proctors had come because granny was going to transfer some properties to me; granny knew that because she had told uncle Oliver to make arrangements.

Q. What happened after the Proctors came? A. The proctors and uncle Oliver left the house and uncle Oliver came back with Fr. Bourgeois; that was before lunch; the proctors also came back with Fr. Bourgeois and uncle Oliver. Fr. Bourgeois, I saw, was reading some documents and speaking to granny. I was not in that party. Fr. Bourgeois sent for me and asked me whether I would give granny the 30 life-interest in my properties. Granny said "I trust her, I knew she will give it to me". Then uncle Oliver took Fr. Bourgeois away. After that granny called in uncle Oliver and I saw her handing over some money to him. The proctors discussed something with granny and went away. Doctor, aunty, granny and I sat for lunch. After lunch the proctors came back and also uncle Oliver. Then granny signed the deeds. I also signed them. Granny got up from her seat and said "EH KERUWE THAK-KADI KAMAI, MEH KERUWE YUTHU KAMAI". (Then I was cheated; now I have done my duty). After this the proctors and others went away. Granny remained there till about 4 p.m. After the signing 40 of the deeds she wanted to see my husband Aenian. The doctor rang up someone. Aenian came there. Granny had a ring in her bag and wanted to give it to Aenian; being too shy to give it, she handed it to me and asked me to give it, I put it on his finger. Granny asked those present not to mention anything about the signing of the deeds to her son. And she went away; uncle Oliver took her back. Granny sent my suitcase back in the same car.

I stayed at Van Dort's till school re-opened somewhere in May. Granny had sent only that suitcase back containing the clothes. The jewellery I got back about two weeks later. Granny sent word through one Dominic Mendis asking me to come there and take away the jewellery. I had no way of going as uncle Oliver and family were at Bandarawela ; the Van Dorts did not want to go to Whist Bungalow. When uncle Oliver came back I told this to him ; there was a friend of mine, Carmen Wijesuriya, with whom I said I could go ; she is the daughter of Mr. C. N. E. Wijesuriya. Uncle Oliver said he would try to arrange with
 10 Mr. Wijesuriya to go with us. Mr. Wijesuriya was willing, and one day uncle Oliver, his wife, the Wijesuriyas and I went to Whist Bungalow. Mr. Wijesuriya stayed out ; Carmen and I went into the house ; while Carmen was speaking to uncle's wife I went in ; Granny gave me the jewellery and some of my other clothes packed in a cane basket. The servants refused to carry the cane basket ; Carmen helped. I carried the silver casket and some other boxes containing the jewellery. Uncle Stock was speaking to Mr. Wijesuriya in the garden. This was about two weeks after the signing of the deeds.

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In between the signing of the deeds and bringing back the jewellery,
 20 granny used to come to Bambalapitiya and give me money. Arrangements had been made for me to go to St. Bridget's and I went there with Dr. & Mrs. Van Dort ; they were prepared to take me in. In May granny, Dr. & Mrs. Van Dort, uncle Oliver, two others who had come with granny, and I went to the convent. I had informed granny about the date and she came in car one Sunday early in May. At the convent granny gave the Mother Superior Rs. 200 and gave me also some money ; I was not a student at the convent, only a boarder. While at the convent granny used to come and see me now and then.

One day in May or June Fr. Bourgeois came and spoke to me at the
 30 convent. He informed me that uncle Stock wanted the properties back which granny had transferred to me. I said I would not give them back, so he went away. When uncle Oliver paid me his next visit I told him about this. He did not tell me anything. Granny did not come to see me after that. I cannot remember if she came to the convent after Fr. Bourgeois' visit. Fr. Bourgeois came to the convent again in June, 1947, on a Friday or Saturday, that is one year later, and called me to go back to Whist Bungalow. I refused to go. I rang up Mr. Nadarajah, a friend of uncle Oliver's whom uncle Oliver had asked me to ring up if I wanted anything, and asked him to send uncle Oliver to the convent. Uncle
 40 Oliver came and I told him I would like him to be present when Fr. Bourgeois came again. Uncle asked me to inform him through Mr. Nadarajah when Fr. Bourgeois came and he went away. The next Sunday when Fr. Bourgeois came and saw me at the convent for the third time I informed uncle Oliver through Nadarajah, and both of them came. Uncle Oliver asked the Father why he wanted to take me away and Fr. Bourgeois replied " I am not going to tell you ". Uncle Oliver then told me I could do what I liked. I flatly refused to go. Fr. Bourgeois went away, and

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did not visit me after that. This last visit of his was made about two weeks before my wedding day, the 28th June. I told uncle Oliver I could not wait in the convent any longer and I wanted to get married. So I got married. I am now living with my husband in the father-in-law's house.

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Cross-examined by Mr. Adv. Dissanayake—Nil.
Cross-examined by Dr. Hayley.

Throughout this case I have been present in Court hearing all the evidence given by Mrs. Antony and Fr. Bourgeois. My proctor in this case is Mr. Herat who just questioned me. I remember signing a proxy ; 10 it was given to Mr. Mack. I do not know that I have had three different proctors in this case ; it may be correct. (Witness asked to name the proctors). One is Mr. Herat, one Mr. Mack and one Mr. Noel Gratiaen.

Q. Did you sign any papers authorising a proctor to act for you in this case ? A. Yes, some time back uncle Oliver brought some papers to me and I signed. I did not sign any papers recently to change the proctor. I do not remember signing some other papers before that.

I heard everything that Fr. Bourgeois stated. When he was giving evidence I knew that much of it was untrue. I gave uncle Oliver the details for Fr. Bourgeois' cross-examination. Uncle Oliver was in Court 20 practically throughout. I used to turn round and tell him what was untrue in Fr. Bourgeois' evidence. Dr. Van Dort has not been in Court. I heard the cross examination of Fr. Bourgeois.

Q. Did you realise at the end of that cross-examination that he had not been cross-examined on a good many of the untruths he had stated ? A. I cannot remember if Fr. Bourgeois was questioned on them or not. If anything had been left out I would have found it out. I may have told others of what Fr. Bourgeois had not been questioned about. Mrs. Van Dort has been here only today. My mother-in-law has been here every day of the case. At the beginning of the case Mrs. Van Dort was 30 here and she went out on being asked to.

Q. Did you make a statement to anyone before you got into the box today, of what you would state in this case ? A. Yes, I did that some time back, I cannot remember how long ago, just when the case began. A full statement of what I would say was written down by me ; things I could not remember I asked my husband. He and I together made up that statement.

(To Court : I remember the time this action was filed. Summons was served on me ; I gave it to Mr. Oliver Zoysa. Then I used to go to Mr. Mack's house at Bambalapitiya where he questioned me ; he noted 40 down what I told him about the case. What I did with my husband was this : I noted down the facts in the form of a statement and kept it in order to refresh my memory. Q. Did you prepare a statement of your evidence at the request of your proctor to be given to your counsel ? A. Yes, that was prepared after I gave instructions to Mr. Mack and after I married ; that was given to Mr. Herat.)

I went to see Mr. Mack with Dr. Van Dort from the convent. Sometimes Mr. Mack used to write down what I said and sometimes he listened ; I did not go there very often. After I prepared my statement and read it over with my husband I showed it to uncle Oliver ; he did not help me to write that statement, nor did he correct it ; I just showed it to him, and he just looked at it and gave it back to me. I showed it to Mr. Herat a day or two ago, on Monday I think ; I sent it through Dr. Van Dort ; that is the first time I showed my written statement. I went to Mr. Herat's house yesterday with my husband, Dr. Van Dort and Mr. Mack. Mr. Gratiaen was not there. (Witness points to Mr. Jansz and says he was there).

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Q. Was that the first time you saw him with these gentlemen?

A. I saw him once before ; Mr. Herat and Mr. Mack came to Oliver Zoysa's house where I am living and questioned me.

I have seen copies of the evidence given in this case from time to time ; I did not want to read it all as I could remember the evidence.

I am 24 years old ; my birthday is 15th December, 1924.

Both after the death of Mr. C. S. Antony and before my uncle used to quarrel with me. I did not run after any young man. I know Mr. Vincent Silva ; his name was not mentioned in the house by my uncle nor is it true that I began to dislike my uncle or was rude to him because of his attitude to Vincent Silva.

My uncle Mr. Stock Antony told me he had made some money during the war. I do not think my grandfather's business was badly hit during the war ; on the other hand my uncle told me he had done well during the war. I do not know whether my uncle disliked wasting money. I never used the telephone unless I was called. My uncle never objected to my using the telephone.

By the end of 1945 I was in very bad terms with my uncle. He kept uncle Oliver and the Van Dorts away from the house ; at that time my granny too was frightened of him. It is not true that many friends used to come to see me in the house.

I arranged a party on 15th December, 1945 ; my uncle did not object to that ; then we were not on bad terms. The bad terms began after 15th December, 1945. My grandfather died in 1943. Between 1943 and 15th December, 1945, also we used to fall out now and then. My granny spent for this birthday party. About thirty guests were present and we had a merry evening. But this is not the best event I can remember in my life. My 16th birthday party too was a very big event arranged by my father.

I know Mr. Menon. I wrote to him afterwards about this party on the 15th December, 1945. I cannot remember whether I wrote to him that 200 guests were present at this party ; if I did say that it cannot be true.

(Sgd.) N. SINNETAMBY,
A. D. J.

Adjourned for lunch,

25th February, 1948.

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(After interval.)

MRS. IMELDA DE ZOYSA sworn.

(Cross-examination contd.): Mr. Menon was working in my grand-
father's office. We were all very friendly with him. He had written to
me before therefore I wrote to him about my 21st birthday party. He
has written to the whole family also. He had written to grandfather, he
had written to uncle and he had written to me also. I came to write to
him after my 21st birthday because he had written to me. I can remember
he wrote a separate letter to me. When he wrote to my uncle Mr. Stock 10
Antony, my uncle did not show me that letter. Mr. Menon was writing
from India.

He had not been on a holiday, he had left the business. As a small
girl he was always kind to me. That was the first and only letter that I
wrote to him. I told him how friendly we all were.

Q. Right up to the end of December you were quite friendly with
Mr. Stock Antony? A. He used to be friendly, he used to fall out—
things like that.

Mr. Stock Antony had about six children. I do not know whether it
would be annoying if I played the piano and woke up the six children 20
when they were sleeping. Only when the baby was sleeping objection
was taken to my playing the piano. It did not happen only once. He
did not like me to play the piano. It happened several times; must have
been because of the baby or the wife might have been upset. Mrs. Antony
also lived in the house. If I woke up her children she would get annoyed
too.

(Shown letter marked P18 dated 19th December, 1945): This letter
was written by me. It is signed by me. (letter read to witness). "Uncle"
referred to in that letter is Mr. Stock Antony. I do not remember my
uncle reading out the letter. C. P. Antony's daughter Edith is my 30
mother's cousin.

Q. That letter does not suggest at all to Mr. Menon that this was an
unhappy household, that your uncle was beating your grandmother and
driving you out of the house? A. All that started after the birthday
party.

I did not remember about the 200 guests between then and now, I
was confused. I have no reason to tell Mr. Menon an untruth. There
must have been 200 guests.

Q. All the unpleasantness you spoke of about Mr. Stock Antony's
misbehaviour all along even before your grandfather died, after reading 40
that letter you say it is all a mistake? A. Yes.

With regard to the safe, I did not mention anything about a name
to open it. I am sure of that. The difficulty was they did not know
that there was a button to open it. There was a button to press. They
did everything but they did not know about this button. There was a

key too. You have to put the key in, turn the handle and press the button. A child strong enough to turn the key can open it if that child is taught.

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(To Court : The button had to be pressed at a particular stage. The secret lies in that there were several buttons and a particular button had to be pressed at a particular stage. You have to put the key, turn the handle and while pulling you have to press the button. All that had to be done simultaneously.)

My grandfather showed me how to do it. When I was not there, if he were ill no one could have done it. I was not in the house for some time, I was in my father's house. I really think that Mr. Stock Antony could not have done it. He did not know how to do it that day. I do not know how many buttons there were, I did not count them. I cannot say there were several buttons. There were about three to four. I did it often for my grandfather.

Q. There is a handle and there are three little screws in a circle?

A. Not in a circle—one on top and two on either side—I really cannot remember.

I cannot remember how many shelves were there in the safe. It was not very big inside. I cannot say whether the inside of it was one foot high or three feet high. I cannot say what the breadth was.

(To Court : I knew what one foot is. I think it will be about three feet high and two feet wide.)

It was not a green safe. I cannot remember what the colour was. The inside of it was cream I think.

I never said that Mr. Stock Antony used to beat my grandmother. He did not beat my grandmother. I said he tried to beat her. He wanted to beat her with a chair once. He tried to beat her whenever he got into a temper. I cannot say it happened very often. It depends. Sometimes it happened quite often, sometimes after a long interval. He tried to beat her twice in December, 1945. We were all very friendly up to the time I wrote this letter (P18) on the 19th December. This incident must have occurred between the 19th and the 31st December. She was not in bed ill all the time. She was not too well but she used to go about. Afterwards, towards the end of December she had to be put in bed. That was after Christmas. Mr. Stock Antony could not have tried to beat her when she was ill in bed. It must have been between the 19th and the 25th. This incident happened because she did not want his brother-in-law to come home. His brother-in-law is Mr. Oliver Bogahalanda. Grandfather too did not want him to come when grandfather was living.

Up to that time Stock Antony had been quite friendly with Oliver Zoysa. He did not take objection to having too much of Oliver Zoysa. He used to come only at uncle's request. He came whenever he was asked to come. Yes, he came frequently when my grandmother was ill. Towards the end Mr. Stock Antony did not turn him out. Once he was not allowed to come in by the watcher but he came in. Towards the end I

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do not know whether Mr. Stock Antony did not want to see him too much. I do not know the reason why my uncle kept him out. It was not because he was trying to force his son on me. I do not know the reason. I do not know whether this might have been the reason. My grandmother never asked him to keep Oliver Zoysa out.

I said that the servants were told not to obey my orders. The woman who used to do my grandmother's work and my work was told that. I was there when she was told not to do our work. I did not give some orders that my uncle did not like. He told that because he did not want her to do our work. She was there on purpose to do our work. When-10
ever we asked her to do anything he used to call her and ask her to carry one of his children. My grandmother paid her. He did not ask me to turn the woman out of the house.

My husband is a student in Medicine. This is his third year. At the time I married him he had no money to keep me. My grandmother was very pleased with that marriage at all times. My grandmother told me that I should marry him. I do not know who suggested it to her. She knew that he had no money. This was in 1945. He did not come for my 21st birthday party because I did not know him then. I did not meet him in 1941. My grandmother made the suggestion to me in October, 20
1945. Up to the end of December I had never seen him. My grand-
mother did not suggest to me to invite him for my 21st birthday so that I may come to know him. Mr. Stock Antony did not suggest either. Mr. Oliver Zoysa did not come for the 21st birthday party because I did not invite him. He was not then a frequent visitor to my house. I said he used to come frequently when my grandmother was ill because he was sent for.

These 200 guests were all my personal friends—not my grandfather's friends. Some of the guests were relations. Relations all came because I wanted them; not the older people, only the younger relations were 30
asked to come. My grandmother did not give a list of the people whom I should invite. There were not several people whom I did not know. There were no business friends of my grandfather. I am quite sure about it.

Q. Is it not a fact that there were people from business houses in Colombo, all sorts of people, who had nothing to do with your family, who could not possibly be known to you? A. Only whom I knew I invited.

Q. Were there not a large number of gentlemen and ladies too I suppose who had business connections with your grandfather who were 40
not known to you? A. No. I knew them all.

There was the Manager of the Ceylon Insurance Company. There might have been some business men but I knew them all. Judge St. Claire Swan was there, and people like that whom I knew. Even the business men were not business men who were connected with my grand-
father's business. I knew the Manager of the Ceylon Insurance Co. whom

I had met at Dr. Van Dort's house. These men did not include Mr. Oliver Zoysa. At that time Mr. Oliver Zoysa lived in Borella. He was an Inspector in the Excise Department. Mr. Oliver Zoysa was a friend of grandfather. He knew aunty very well. He used to come to see daddy very often. Mrs. Zoysa and Mrs. Van Dort were friends. Mrs. Van Dort prints ornamental designs on sarees. Mrs. Zoysa did not get in touch with her in that connection. They were friendly from the time daddy was alive. Mrs. Van Dort came to the party. Oliver Zoysa was not invited. I did not deliberately leave him out. I must have forgotten him.

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I do not know whether grandmother was pleased with the marriage. I did not meet her after that—I have no idea. I knew my grandmother liked at first. She had given me all the property voluntarily. She took a great interest in me always. She gave me a large amount of property by this deed, all of her own accord. All this she did without anybody's suggestion. I can say that she liked the marriage very much when I was with her. She was the one who spoke to me about my husband. She used to come on Tuesdays to see me when I was with Van Dorts. She used to come by car, that is, by one of the cars of her husband. I did not meet her in other places. I did not ask her to come, she used to come of her own accord. She was not allowed to come for my wedding. She did not come for my wedding. I know it was uncle who did not allow her to come. I was there to know that. When she came to see me on Tuesdays she used to say that she was going to St. Anthony's Church and come and see me. Tuesday was the day she used to go to St. Anthony's Church. This is what she told me.

I did not make any attempt to have my wedding at Whist Bungalow. Whist Bungalow after my mother's death was like my home.

Q. You always looked forward to have your big marriage party in your own home? A. Yes, when grandfather was alive.

My grandfather was not alive when I had my 21st birthday party. I never thought of having my wedding party at Whist Bungalow.

Q. It is usual amongst most of your people, for the bride's party to give the wedding party in their own house? A. It depends how they are getting married.

(To Court : Normally when the marriage is with the consent of all parties it is usual to have the wedding party in the house of the bride's party.)

My husband's parents gave the wedding party. They did not go and ask Mrs. Antony to have the wedding at Whist Bungalow. How can they go there when the case was on?

Q. Did you go and plead to Mrs. Antony " we must have the wedding here, cannot you arrange with uncle Stock to have the wedding here "? A. I did not want to.

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Q. Did you tell her even that you were going to get married? A.
Yes, she was sent word.

Before I got married I told uncle Oliver that I would like my grand-
mother to know that I was getting married and asked him whether he
could write a letter and send it to her. He said all right, and he had sent
a letter saying that I was getting married. I do not know who wrote the
letter. It was written in Sinhalese. It was a formal letter. It was sent
to her by one of my uncles who is a relation—uncle Vincent—he is here.
I do not know how he is related. I know he calls granny “aunty”. He
is a distant relation. I was in the convent then. Uncle Oliver had given 10
the letter to him. Uncle Oliver had got someone else to write the letter
and had given it to uncle Vincent to give it to grandmother. I could not
write Sinhalese. The letter purported to come from me. I did not sign
the letter. I did not see the letter. I did not want to see it. I knew
uncle Oliver would write. I trusted him. I did not write in English
because she could not read English. I do not think there was anyone
there who would read a letter in English for her. I knew that there was
no one to read it for her and it will be useless. I did not take any interest
personally to beg her to come. That is all I did.

Q. Was it a great grief to you? A. I would have liked her to come. 20

(To Court : I felt her absence but I knew that I could not help it.)

The old lady knew Sinhalese. It was better for her to read in Sinha-
lese I thought than anyone else translating it to her. My grandmother
never sent a wedding present. She put a notice in the papers that she
had nothing to do with the wedding.

They told me what they did write in this letter. They did not tell
me that they wrote and asked her for money for the wedding—I cannot
remember—I don't think they told me that. They told me in English.

It was uncle Oliver who told me.

(Letter read to witness.)

80

Q. You now remember that they wrote and asked her to make
arrangements to give you money for the expenses? A. I cannot re-
member.

She did not reply to that letter. She never replied. I had no cause
to quarrel with her at all. All this time we were friendly. She had given
all her property. I was marrying the young man whom she wanted me
to marry. Yet she did not answer my letter. When uncle Vincent took
the letter and gave it to granny uncle Stock came out and wanted to shoot
him. Uncle Vincent told me this story. Uncle Oliver could not have
sent the letter by post as granny would not have got it. Uncle Oliver 40
wanted to make sure that she received the letter. Uncle Stock Antony
opened everybody's letters and he would not have given this letter to
granny. I did not tell this story to my proctor when my grandmother
was in the witness box. I deny that I am speaking an untruth. This is
the truth. I wanted to make sure that she got the letter and I knew that

uncle Oliver would do it. Uncle Vincent was the messenger who said that uncle Stock came out with a gun. He heard uncle Vincent talking to granny, he came out and saw that it was a letter. He must have listened to the conversation—and came out with a gun to shoot him. I did not put down what I am telling today in the way of a written statement.

The letter was delivered to granny, I do not know what happened after that. I do not know whether the wedding cost a great deal. The wedding party was held at the Grand Oriental Hotel. There were hundreds of people. Mr. Oliver Zoysa had to pay.

10 I stayed for a period of some weeks at Van Dorts. I was there from the beginning of February till April. In April I went back to my granny. While I was there people began to talk about properties. I did not know anything about my property. I was never told anything about properties. I knew there was property belonging to me. I only knew that there was one property belonging to me. Before I went to stay with Van Dorts I knew there was just one at Grandpass. Grandfather told me that he was writing a property worth Rs. 12,000 for my father's insurance money. The property was at Alutmawatta Road. I know that grandfather did not have the deeds; I knew uncle Stock had them. While I was living
20 with Van Dorts Mr. Oliver Zoysa used to come and visit from time to time. He used to come fairly often, Van Dorts and Oliver Zoysa were very friendly. They were very friendly with aunty all throughout even when daddy was alive. During the time I was there the proposal of my marriage was in the air. There was no definite engagement made then. It was not made till August, I am quite sure. I was in the convent then.

Dr. Van Dort spoke to me about the property when I was with the Van Dorts. He asked me whether I knew anything about my property. I said I knew nothing. I did not consider it an impertinence for him to question me about my property. He looked upon me as one of his own
30 daughters, so he thought he will see about the family property for me. The next thing he said was he will take me to a good proctor to find out about the properties. I had one property. It was to be found out about the rest of the property—grandfather's property—whether I had got any more.

(To Court : It was to be found out whether my grandfather had left me any properties under the will.)

I did not know anything about a will. I thought I would be entitled to some. I knew before Dr. Van Dort made the suggestion that I would be entitled to some properties. Before I left Whist Bungalow I did not
40 ask my grandmother about it. She herself did not know anything. When I was at Van Dorts my grandmother did not know anything about properties to tell me. Dr. Van Dort said that he was going to take me to a proctor. I did not go to stay at Van Dorts in order to be troubled about properties. Mr. Oliver Zoysa, the doctor and I did not have discussions. Mr. Oliver Zoysa may have spoken to me but not then. I did not discuss with them. I do not know whether Mrs. Van Dort, Mr. Oliver Zoysa and the doctor discussed about properties. Later I heard them talking about

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—continued.

properties. Later when granny gave me permission to go and consult a proctor then I came to talk about properties. I did not tell my proctor when my grandmother was in the witness box that she did not know about the properties. I must have told this to my proctor long ago when I went to see him how the matters stood. Mrs. Antony is a person of great character. I have seen her in the witness box. She is not a fool at all. She is one of those typical household ladies. She was quite willing to go on with no idea of what her properties were. She used to ask uncle Stock Antony and he used to say "trust me".

I went to Whist Bungalow because grandmother sent for me. She 10 telephoned from Whist Bungalow to Dr. Van Dort asking me to come and that uncle was not there that day. She got Edith to telephone to me. Uncle had gone to Gampaha with his family. Van Dorts had not telephoned to her first; she did this on her own. When I went there neither she nor I knew anything about the properties. We had not consulted a proctor then. I did not ask her to speak to uncle Stock because it was useless. I did not talk to uncle Stock about the properties then. Previously efforts were made to get information from uncle Stock before I went to Whist Bungalow. I did not make any effort. My grandmother did not make any effort. Oliver Zoysa did not make any effort. When I 20 went up there my grandmother did not make any effort to find out from uncle Stock Antony. She had made efforts before. She told me that she had made efforts before. I told my proctor long ago about this. When she was giving evidence in the box I told uncle Oliver that she had made efforts before.

I went to grandmother and I told her that Dr. Van Dort suggested that I should have a proctor to find out really what properties there were and what I was having because I did not know anything. I did not make any suggestion that she should give me all her properties. She did not know what properties she had and what properties I had. At that time 30 Dr. Van Dort had not suggested that she should give me all her properties. Nor did Oliver Zoysa suggest it to her. She agreed that I should have a proctor. She did not suggest Mr. Jayasekera. He was not doing her work then. I knew that Mr. Rasanathan was doing everything for her then. I did not know that proctor Jayasekera had done any work for her before. I did not go to Mr. Rasanathan. Mr. Rasanathan attested all her deeds. I do not think she asked him to do me any work. I did not know that he was the proctor in the testamentary case.

Dr. Van Dort said that Mr. Mack was a good Proctor. I did not discuss with Aenian or his father whether that was a good idea. I saw 40 Mr. Mack at his home in Bambalapitiya. I went there with Dr. Van Dort and aunty. Dr. Van Dort talked to Mr. Mack. When Mr. Mack asked me some questions I answered them. I did not volunteer any statement. I was not shy. I had never been to a proctor before. Dr. Van Dort told Mr. Mack that I did not know anything about my properties and asked whether he could help us in the matter. He said yes. He was to find out about all the properties of grandfather's estate. Mr. Mack told me

that he would do that. I cannot remember the date of my visit. I think it was in March. The deed was on the 12th April. I cannot remember how long before that deed. I think it was in March, I cannot say whether it was towards the end of March or the beginning of March. That day Mr. Mack asked me whether granny and I did not inquire from uncle about our properties. I told him that granny used to ask several times but he never told her and even when she used to sign cheques she did not know what the contents were but she used to sign because her son used to put them before her. I did not tell him about the testamentary case. I may have told him about the death of grandfather. I did not sign any paper there. He asked me whether I could remember what properties I had. I must have told him about that one property which was conveyed to me before.

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I think I saw Mr. Mack again. I cannot remember whether I went to his place or whether he came to Van Dorts. On this occasion he brought a list of the properties in the estate—all the properties of grandfather's estate. He did not mention the Pettah property, the Fort property and the Mattakkuliya Ferguson Road property. He did not know anything about these properties. He said these were all. Then I said there were these properties also. At that time I knew that these properties belonged to grandfather but I did not know anything about them. I did not tell him how to trace them or what the deeds were because I did not know anything about them. I do not know how he found out but he found out at the end. Being a proctor he should know how to find out.

I cannot say how many days before the deed was signed was my second visit to Dr. Van Dort. Early in April I went alone to Whist Bungalow. I think I went there before the 1st of April. I cannot remember whether it was ten days before, it may be less. I went back to Whist Bungalow at the request of granny. She was very happy to have me there. She was fond of me and she said I was very useful in the house. She said she could not be without me, that she was feeling my absence very badly and so to please her I went. The second interview with Mr. Mack was before I went to Whist Bungalow. Mr. Stock Antony was there when I went to stay. He was living in the bungalow as before. I stayed there for 8 or 10 days. After that I went back again to Van Dorts. That was not because I promised to stay for a week only. Trouble started with uncle Stock Antony and at granny's request I went back. At this time in 1946 we did not like each other. So I decided to go back again to Van Dorts. I went to Whist Bungalow somewhere early in April; I left on the 12th and did not go again.

Q. You said you left the Van Dorts towards the end of March, you stayed in Whist Bungalow until early in April and then went back to Van Dorts and then came to Whist Bungalow about the 10th? A. I never said that. I said I went there early in April—I cannot remember the date—and I stayed there till the 12th. On the 12th morning I went back to Van Dorts.

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I have stated a great deal of what happened on the 10th April. That was during the period I stayed there at grandmother's request.

Q. The last visit of yours to Whist Bungalow lasted from some day in the first week of April up to the 12th? A. Yes.

On the 10th afternoon I saw my uncle and Rasanathan with some papers. I saw them at uncle's desk in the office room. I was not in there. I passed that way and saw them through the door. I saw through the door my uncle talking to Mr. Rasanathan and the paper was on the desk. I at once became suspicious because I was told to be careful of anything that I signed. They did not ask me to sign. I was not looking through the door, I just passed that way and I saw them; what I mean is, I was not spying on them. They must have seen me. I was suspicious that uncle would get granny and me to sign some papers. My grandfather had been dead for two years then. I had been out of the house for a considerable number of weeks. Mr. Stock Antony could not have done anything, talked to Rasanathan and done anything for about two years. Mr. Rasanathan must have come to the office before. I did not see him very often. I cannot say how often I had seen him. I was suspicious that uncle Stock Antony was going to get granny and me to sign for my quarter share and granny's half share of the estate. Supposing he asked me to sign and forced me to sign I would have to sign. During all the time that I had been in that house before I cannot remember whether he asked me to sign any papers. I don't think he asked me to sign. I was not 21 years then. He did not ask me to sign. Once the clerk brought me some papers and said it had something to do with tax and got me to sign, at the instance of uncle Stock Antony.

Q. If your uncle wanted you to sign anything it will be much more likely that he will do it when you are friendly with him than when you are on bad terms? A. Yes.

Q. From 1943 when your grandfather died up to the 19th December, 30 1945, you were on good terms with Stock Antony? A. Yes.

Q. Did he ever during that time ask you to sign away any of your properties? A. No.

Q. After being at Van Dorts for about six weeks, the first time you saw Mr. Antony talking to Mr. Rasanathan you thought he was going to ask you to sign away your properties? A. Yes.

After I passed the door and became suspicious I did not do anything. It so happened that Dr. Van Dort rang us at that time. After I went there he used to ring up. I cannot say how often he used to ring up. I cannot say it was once a day or once in two days or three days. I told Dr. Van Dort that there was sure to be trouble and asked uncle Oliver to come. The only trouble I knew at that time was that I saw Mr. Stock Antony talking to Mr. Rasanathan. I asked uncle Oliver to come. He came in the evening. He came alone. Through Dr. Van Dort I sent the message to uncle Oliver asking him to come. I used to always call him uncle Oliver from the time I was small. I do not know whether he was

related to me. He may be a distant relation of grandfather or grandmother. I wanted uncle Oliver to come as I wanted to tell him that there was sure to be trouble about the properties, and because Dr. Van Dort could not come I asked Dr. Van Dort to tell uncle Oliver to come. Dr. Van Dort said he could not come. Uncle Oliver knew nothing about these properties. Later on he came to know about them.

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Q. Was it perhaps Oliver Zoysa who told you that you must get properties out of your grandfather and when you were going to get them?

A. It was not that.

10 (Further hearing adjourned for 5th March, 1948.)

(Sgd.) N. SINNETAMBY,
A. D. J.

No. 175/ZL

5-3-48

Appearances as before, but Mr. Cyril E. S. Perera with Mr. Dissanayake appears for 2nd defendant.

MRS. IMELDA DE SOYSA sworn. (Cross-examination—contd.).

I do not know the number of the deed of gift in my favour; I never heard of it till today. I do not know where it is; after it was signed I do not know what happened to it. I know that uncle Oliver and the two
20 proctors went away taking the deed, and I have not seen it since. Uncle Oliver and Dr. Van Dort witnessed it.

When Dr. Van Dort rang me up at Whist Bungalow on the 10th April I answered and asked him to tell uncle Oliver to come because I suspected that uncle Stock would that day get us to sign those papers which he had; I wanted to tell uncle Oliver if anything happened. I did not want him to do anything when he came. I had never discussed with him earlier the question of my getting all of the properties. I only told him somewhere in March that I went to see Mr. Mack with Dr. Van Dort. I never discussed with uncle Oliver the properties of the late Mr. Antony, nor did
30 he discuss with me; I do not know whether he knew anything about them. On the 10th April he came to Whist Bungalow at about 6 p.m. and stayed about 15 minutes; during that time I told him what had happened and asked him what was to be done; he said something must be done and asked me to be careful. I told him uncle wanted us to sign the papers, when we refused to sign he kicked up a big row. Uncle Oliver did not take upon himself to interfere in the affairs of the Antony household. Uncle Oliver was in the garden, he did not come into the house; I too was out in the garden and spoke to him. No one else heard what was said. When uncle Oliver came he sent word to us through uncle
40 Stock's child. He wanted to see uncle Stock but the latter sent word that he was having a bath when he was really not having a bath, and did not come. Uncle Oliver did not inform him why he had come. I do not think it was impertinent of him to stand out in the garden and call for uncle Stock,

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On the 12th April Oliver Zoysa came to Van Dort's about 9 a.m. and stayed there about half an hour ; then came the two proctors. Uncle Oliver went away with the two proctors about 9-30 or 10 a.m., I do not know why, and then they all came back with Fr. Bourgeois ; this was before lunch, might have been before 12 noon. Then uncle Oliver went away with Fr. Bourgeois and the two proctors, and returned back with the two proctors, but leaving Fr. Bourgeois, a little while after lunch. That was his third visit to that house for that day, and it was after he came the third time that the deed was signed. I did not ask what uncle Oliver and the proctors were doing after that. After the signing of the deed granny wanted to see my husband Aenian. Dr. Van Dort telephoned for him and Aenian came, by himself. It was then that granny gave the ring. I have not got the ring here.

Mrs. Antony told my uncle on one occasion " you killed your sister, are you trying to kill the only one I have now ". His sister is my mother. He used to torment her life out ; for instance when she played the piano he used to pour buckets of water over the piano. That was when she was living in Hilden House in Mutual with her brother. He used to pinch her too. This is all what my grandparents told me. I was not born then. When I heard it I hated my uncle. I cannot remember when I heard all 20 this.

In January, 1946, there was a boating party organised by my uncle, not I. We also joined in it ; these parties were not of frequent occurrence. We went out into the river by the side of Whist Bungalow, and after we came back we had a few eats and drinks on the river bank. I did not do anything particular at that party. My uncle's aversion for me did not start with the boating party ; I mentioned the boating party just to fix the time. It was really something in connexion with his wife ; she was carrying on with another man by the name of Clement Fonseka. I was then over 21. My granny begged of me to tell this to uncle, that the 30 matter was going too far. I refused, but my granny said it would be a great disgrace if anything happened and pressed me to tell my uncle ; and I did. I knew of it personally ; she used to talk with him for hours and even neglect the children ; she used to write to him, she used to meet at the back of the house. We all saw it, granny, and even the servants. Grandmother was too frightened to tell her son. When I told this to him uncle grinned and a few days later he said granny and I were trying to blame his wife and making all these stories about her. I told these things to my proctor before Mrs. Antony was examined.

I said Mr. Mack told me all about my properties. Before he told me 40 what the properties were which grandfather left I knew nothing about what had happened, but I knew the properties, what they were. Granny knew the properties that belonged to her husband, but after he died she did not know what happened to them, whether they were transferred or so. Mr. Mack told me granny had transferred some properties. I told Mr. Mack that I knew what my grandfather owned ; I had seen them, I had been to these places with grandfather when he was alive. I did not

give him a list. He only found out what the properties were and then I told him what were missing in his list. I do not know what list Mr. Mack meant. I think I told him that the Fort and Pettah properties were not in the list that he gave me. That was the first time I heard that some properties had been given away. I did not know of the mortgages ; I had never heard of the mortgages. I cannot remember what Dr. Van Dort said on that occasion. (Counsel refers to the evidence : " When granny came there on the next Tuesday and the doctor said she had signed away the Fort and Pettah properties, she was very angry ".....) I do not
 10 know what business it was of Dr. Van Dort's. I did not think it was an impertinence on his part because granny had asked him to find out these things. I don't know whether he told her they were subject to heavy mortgages and who was paying the money on those mortgages.

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On the 10th April at Whist Bungalow I saw proctor Rasanathan with Mr. Stock Antony in the office in the place where he usually worked. I did not go in. I was passing that way and I saw them through the door. There are four doors to the office. I do not know whether it would be unusual for him to have had papers in the office. At that time I myself did not telephone to anyone ; I only answered a call and said " Ask uncle
 20 Oliver to come, there is sure to be trouble ". I thought uncle Stock would try to get us to sign the papers which he had before him ; I did not look into those papers but I suspected.

(To Court : Q. What made you suspect ? A. Because previously uncle had got granny to sign papers and Mr. Mack had asked me to be careful to see what I signed ; naturally it made me suspicious.)

Q. Was there any reason why Mrs. Antony should not give all the properties to her son ? A. If she wanted to do so there was no reason against it ; that is if it was her wish to give all to him. I knew my grand-
 30 father had left me one property. I knew I would get a quarter share in all the properties ; Mr. Mack had told me that ; before he told me that I was not aware of it ; this was the first time Mr. Mack had spoken to me about that ; then I knew I was an heir to all of Mr. Antony's properties. But I was not surprised. I did not tell Aenian about it. I knew Mr. Antony had a lot of property, that he was a wealthy man.

Q. When you discovered that you were to be an heir, did you tell Dr. Van Dort you were getting a $\frac{1}{4}$ share ? A. I need not have told him because Dr. Van Dort was there when Mr. Mack told me. I did not tell uncle Oliver about it. Nor did I get excited when I heard of it.

By the 10th April I knew I was an heir.

40 Q. As you had already got a good share of the properties is there any reason why Mrs. Antony should not give the rest to her son ? A. I do not know.

Granny said " I have been tricked once, I won't be tricked again ". She said that standing near the table in the office room. She said that because she had been tricked once. She did not know when she signed away those Fort and Pettah properties. She thought the papers had something to do with the business.

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Q. Did you tell this to your proctor before Mrs. Antony got into the box? A. I had given my statement to Mr. Mack; I told him about it.

I said at about 4 p.m. that day my uncle tore some papers; I saw some bits of paper torn on the ground that evening. At that time I think Mr. Rasanathan had left. I did not go into the office; I saw the torn bits of paper on the ground by the side of the table. I need not have told this to my grandmother because Fr. Bourgeois had told her that when he came there, that he had torn the papers without showing him. Passing that way, I saw the bits of paper on the ground. I was not passing that way all the time. I did not pick out the bits of paper. It was white paper. Uncle had a waste-paper basket; I do not know whether afterwards uncle put the bits of paper into the basket. I did not go and examine it. I did not want to tell the servant boy about the bits of paper on the ground because the boy was all for them, he did not do any of our work.

I can remember the 12th of April. There is nothing to astonish me about the events of that day; nor did I think it curious that all these things should happen. The first thing that day I went to church with my grandmother, spoke to Fr. Bourgeois and went off. We called on Oliver Zoysa on the way, in the Pettah; his office was there, the Excise Office, and grandmother wanted to see him; she only asked him to come to Van Dorts; he came to the car, we did not get down from the car; we sent word to him through the Guard who came in the car. After that we drove off. Uncle Oliver said he would come a little while later, and we went to Van Dort's; we arrived there about half an hour before Oliver Zoysa came. When he came we were all there except the proctors, just talking about how we came. There was no discussion about the properties then. I don't know if granny spoke. After uncle Oliver came the proctors too came. There is a small garden in front of Van Dort's house; the road is on a side; the proctors must have come in their own car; I cannot quite say in whose car they came. The three of them, uncle Oliver and the two proctors, went out after about half an hour. I was in the adjoining hall with my stepmother. I never heard my grandmother or Dr. Van Dort asking them to do anything. Then they all came back with Fr. Bourgeois. They I mean the proctors, brought some papers. I did not examine the papers nor ask for them. The proctors did not speak to me about the properties then. Mrs. Van Dort and I were in the hall; there was a door between the hall and the verandah where the others were which was not closed and we could see them talking to granny. All this time we were not looking at what was happening in the verandah. I was not interested in the deed though I knew granny was going to sign a deed. When granny came there at the beginning of April to take me away she told Dr. Van Dort that she was going to transfer the rest of the properties to me; it was all arranged early in April. Fr. Bourgeois stayed about half an hour during which time I saw him reading the deeds. Then he called me; I did not know what the deed contained; I don't know why he came or why the others sent for him.

Dr. Van Dort's house is an upstairs house, not very big ; there is a sitting room, a dining room, one bedroom and kitchen on the ground floor, no office room. The hall I spoke of is the dining room where we were seated ; we were not seated there all the time ; the others were in the other verandah. From the sitting room to the verandah there is one door ; the verandah is an enclosed one with a door which gives access to it from outside. The others were not very close to us ; we could hear the conversation ; there was no exciting conversation going on at all We were in the dining room during certain periods, came to the hall and again
 10 went to the dining room while the others were in the verandah I had no part in the proceedings in the verandah I knew granny was going to transfer these properties. I do not know whether it was an enormous transfer ; I knew it was granny's half share ; I knew what properties were going to be transferred. I do not know that she has transferred all her properties and she has nothing left now. The others did not call me to the verandah nor did I want to join them ; so I remained inside.

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My grandmother brought me up as a devout Catholic. She and her husband were devout Catholics. I always went to church with grandmother. I am still a devout Catholic. I cannot remember how long I
 20 knew Fr. Bourgeois before this, may be six to seven years ; I knew him well. He used to visit us when grandfather was living. Both granny and grandfather respected him. (Counsel reads the evidence). I did not hear all that is recorded there. (Counsel reads "She was very excited.....I could not find out anything exactly from what she said when she was questioned"). I only saw them talking, I do not know whether they were questioning or what. So far as I am concerned what is recorded may be all true. I did not hear others telling granny that the best thing would be to sign a deed. I am unable to say anything about it. (Counsel puts to witness Fr. Bourgeois' evidence : "I
 30 was feeling uncomfortable because the old lady was not in a state of mind to sign anything"). She was not excited that day. She did not get into a temper that day. If she was in a temper I would have seen it, because when she gets into a temper she does not talk softly. I saw Fr. Bourgeois talking to her and she was smiling, nothing unusual. I suggest Fr. Bourgeois is not speaking the truth. It is true I was not with them, but she did not look like what Fr. Bourgeois stated. She was looking very happy and smiling.

All these people were in the verandah. The next thing was that Fr. Bourgeois wanted to see me, and I went. He asked me whether I would
 40 give granny the life-interest. I said yes.

Q. Did you consider it very kind of you to do that ? A. I did not think anything.

That was the life-interest of the properties she was transferring to me. I knew she was transferring her whole interest in the properties to me, because granny told Dr. Van Dort earlier in the beginning of April in the doctor's house to have the deeds ready. She said she was going to

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transfer her half share of the properties and asked Dr. Van Dort to make arrangements. I understood what was meant by life-interest. I said I would give it.

Q. But how could you give the life-interest when there had been no transfer to you at all? When Fr. Bourgeois made this request what did you understand? A. Then I understood that the properties were going to be transferred to me. Granny said "you need not ask her because I can trust her, I know she will give it to me". She trusted that I would give her the income of her properties as long as she lived. I only knew that I would give her the income. I was old enough to understand what life-interest was. I said I would give it to her. I did not mean to execute another deed. She said she trusted me always.

This happened on the second occasion Oliver Zoysa came there with the proctors. Then all four of them including Fr. Bourgeois left, together. Up to that time no deed had been signed. I did not know what this coming in and going back meant. Then we sat for lunch. After that uncle Oliver and the two proctors came back, uncle Oliver driving the car. When the proctors arrived with uncle Oliver we had lunch and we were still in the dining room talking. As they came in to the verandah Dr. Van Dort, granny and all of us got up and went out to the verandah and sat down. But aunty and I came back to the dining room. There was a teapoy in the verandah around which the others were seated, the two proctors, uncle Van Dort, uncle Oliver and granny. I did not go and stand behind to watch, nor was I called there. I was not very interested and I did not go interfering. Then I saw the proctors reading the documents; we could hear, but not distinctly; when we peeped we could see them. I cannot say who exactly read it; I only saw them holding up the paper; when I looked that way it was Mr. Mack who was holding it and explaining. Mr. Modder was not in the background. I do not know what part he took or whether he did anything. Next I was called. When I got there granny signed the papers; she had not signed before I got there. I saw it being witnessed. After she signed she got up and remarked EH KERUWE THAKKADI KAMAI, MEH KERUWE YUTHU KAMAI, with her hand raised and with some force. I remember it. So saying she sat down. Then Mr. Mack asked me to sign and I signed. I knew what I was signing. I saw granny's signature there and I knew it was a transfer of her properties. They told me that I must sign because it was a gift to me. I did not read the deed. They told me I must sign in order to accept the gift. A little while later, after the proctors went, granny called for Aenian.

Although this transfer took place I have not so far got any money. Uncle Van Dort and uncle Oliver must be spending for me in this case. I did not promise to hand over any properties to uncle Van Dort; I am quite sure of that; nor did he ask me to do it.

I do not know the value of the stamps used for the deed; I have no idea of it at all. I saw granny giving uncle Oliver some money that evening when granny came into the hall, before uncle Oliver went off with

the two proctors. I do not know how much she gave, I saw four or five bundles ; I thought it was for the expenses incurred in signing the deed. Granny opened her bag and gave the money. We came from Whist Bungalow that morning, the 12th, and it was the day before that granny took out all the things she required out of her safe. She took this money also from the safe. She used to keep money in her own safe. She had quite a large sum ; she took out some bundles out of the safe. She must have had this money long before. She did not tell me how much she was taking, but later on I heard it was Rs. 2,500 ; I found that out ; uncle Oliver told me she gave him Rs. 2,500, long before this case came up. I told the proctors all about it long before Mrs. Antony got into the box. I think the proctors asked me that. Granny did not tell me at Whist Bungalow why she was taking so much money.

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When Dr. Van Dort suggested to me to go to Mr. Mack—that was at the end of February—I did not discuss it with Aenian. At that time Aenian was quite grown up ; I suppose he, being a man, would know more about these things than I. At the time I married him I considered him grown up. I knew he was interested in the properties. I do not think I told Aenian when Dr. Van Dort made this suggestion ; I only wanted to get granny's permission. I do not think these people were more concerned about these properties than any others excepting I. I know what a dowry is. I did not look upon this as a dowry.

Q. Did you discuss this with Aenian at all, either before or after the transfer ? *A.* After the transfer he knew because he came that very day. I did not tell him that I was going to be in the heir of all these properties.

After her husband's death I do not think granny knew the position about these properties. I do not know whether her husband confided in her about his affairs or not.

I stated it was only before grandfather's death that I was practically in charge of the house, that is cleaning up, arranging grandfather's things, getting the servants to attend to his comforts, and so on. I do not know if granny knew anything much about her affairs after grandfather's death. After the death I think it was easy for Stock Antony to swindle her. I do not think anyone else could have tried to get round her. Her son used to frighten her. The old lady did not tell me she had been swindled, but only that uncle Stock had got her to sign papers without her knowing what they were. She did not transfer those properties to him of her own accord.

Uncle Stock has six children. I knew he got $\frac{1}{4}$ of the estate ; I knew I got another $\frac{1}{4}$.

Q. Did you think it was right for her to give her half to you ? *A.* I did not think of it in any way. It was she who gave.

Q. Do you know that Stock Antony in fact has got properties subject to heavy mortgages while you have got the whole of the rest of the estate

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free of mortgages? *A.* I only know that I got $\frac{3}{4}$ share. I do not know anything about the mortgages. I do not know what and what properties have been conveyed by this deed in question.

Q. By deed P1 do you know what properties have been conveyed to you? *A.* I do not know.

Q. Even now you cannot say what properties have been conveyed to you? *A.* I do not know.

Q. Who drafted the deed? *A.* I do not know.

Q. Who gave the names of the properties to the person who drafted the deed? *A.* Grandmother must have told Dr. Van Dort and he 10 must have told the proctors.

My grandmother never met the proctors to give instructions about the deeds. The proctors never went to her at Whist Bungalow; I am sure of that.

My husband is not earning any money yet. We live with his parents; they spend for us. They did not suggest to me to repay them after we got the properties.

I know John Zoysa, brother of uncle Oliver. He used to come to see uncle Stock. I do not know what his occupation is or why he went to see uncle Stock. He started going there before my 21st birthday. He 20 did not come to my 21st birthday party.

I did not know Mr. Modder at the time the deed was signed. That was the first time I saw him. I have not spoken to him since, nor did I speak to him then. I did not know why he came that day.

I said my uncle would not let any servants do anything for us; one of the servants was the boy, whose name I cannot remember; we used to call him "boy"; he must have been there a few months; still he may be there; he must have been about 15 years old then.

Q. What was it that he was not allowed to do for you, which he would have done otherwise? *A.* I cannot remember. There were 30 also the servants who used to do granny's work, Maggie; Eliza was uncle's own servant; the cookwoman was there, I do not know her name, she must have been there about a month, there was also the watcher, he was simply called "watcher"—Whist Bungalow stands on a block of about 5 acres—there was also a garden cooly also working there sometimes. The cookwoman did not refuse to cook, we had no work to give the watcher, I did not ask him to do anything for us.

As regards Sir Ernest's party, uncle Stock said he was going there along with his wife and he called me too. I went with them. I do not know who invited them. 40

After these events, in May I went from Dr. Van Dort's house to the convent; I cannot remember the actual date, it must have been about the second week of May; till then I was in Van Dort's house. Uncle Oliver's family was in Bandarawela in April for 10 or 12 days and after

they returned they came to Van Dort's to see us, sometimes with my husband. Aenian used to come sometimes from the Medical College in the evenings.

After I went to the convent the Zoysas never asked me to come back to Van Dort's house. I myself may have gone to Van Dorts after a week or so. I know Fr. Alexander, a friend of uncle's who used to come to Whist Bungalow ; he had been to see me at the convent and found that I was away. After Fr. Alexander came I do not know whether granny came to the convent. She did come on one or two occasions ; on those 10 occasions she did not call me back to Whist Bungalow ; she only told me that uncle was tormenting her and asking her to get back the property. She herself did not ask me to give them back.

Q. Did she remind you about the promise to reconvey the life-interest ? *A.* She did not remind me ; I was not taking it. I do not know who enjoys the properties now. I only know I am not getting anything from it.

Mrs. Van Dort's sister, Miss Wright, is teaching music at the convent ; she was a boarder too when I was there. She also knew Oliver Zoysa. It was not she who telephoned to uncle Oliver when Fr. Bourgeois came to 20 the convent one occasion. In fact she was not there, it being a Sunday. Fr. Bourgeois came once on a Friday or Saturday. The day uncle Oliver came to the convent when Fr. Bourgeois was there, was a Sunday. That day I wanted uncle Oliver to come. I had told him before that Fr. Bourgeois came and wanted me to go home with him, and that I would like him to be there when Fr. Bourgeois came again. And when Fr. Bourgeois came next I rang up uncle Oliver.

Q. Did uncle Oliver tell you prior to that date not to do anything at all without consulting him ? *A.* He did not tell me that.

I only wanted him to be there because I liked him to be there. Fr. 30 Bourgeois had telephoned to Mother and said he would come to take me away. I knew he would come and worry me ; he came a day or two before and worried me to come home, I said I could not. I did not promise to Fr. Bourgeois that I would come some other time. I only told him I would see some other time. He might have thought I would be coming some other time. So I telephoned to Mr. Nadarajah who lived close to where uncle Oliver was. Uncle Oliver had no telephone. Uncle Oliver came in his car almost immediately. Fr. Bourgeois waited till I telephoned after obtaining Mother's permission. Mother was at prayers, I waited for her, asked for her permission and telephoned for uncle Oliver.

40 After the deed was signed I did not give Mr. Mack instructions to do anything. I cannot remember whether I saw him again after that. After this case started I gave instructions to him. After the execution of the deed I cannot remember whether I saw him in connection with the properties.

Q. Do you know now who took the deed after it was signed ? *A.* I only know that the two proctors and uncle Oliver left together with the

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deed. It was never given to me. So far as I was concerned nothing more happened. I don't know whether I went to see Mr. Mack about anything else, but not about the deeds. I did not send for him and ask him to write any letters for me.

(To Court : Q. You did not try to get the income of the properties which were transferred to you? A. I do not think so. I cannot remember whether I asked my proctor to write anything about it.)

The office room in Whist Bungalow is a large one. My uncle's desk was not close to the other desks; the clerks were also in that room; uncle's desk faced sideways and he could be seen inside the house through two doors.

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nation

Re-examined by Mr. Herat :

I was asked about the letters I wrote to Mr. Menon. Prior to the incident which made uncle hostile towards me, he was not at me the whole time, but he fell out with me at times. After the incident in question it became unbearable.

Q. In the letter you wrote to Mr. Menon you had described Whist Bungalow as a pleasant home. Can you explain? A. When writing to outsiders I could not mention all my troubles; I had to pretend that everything was all right. I put up with my difficulties for the sake of my grandmother.

The servant who did not carry out our orders was Maggie who had frequently to do work for us. Whenever we asked her to do anything for us, at once uncle used to call her and ask her to carry one of his children. At that time granny was ill, and even if there was anything to wash for her, I had to do it.

The first time I went to Mr. Mack was with Dr. Van Dort. I stated I went to Whist Bungalow with Mrs. Van Dort on one occasion when granny telephoned, long before the Easter holidays. On that occasion I told her about seeing Mr. Mack and got her permission. She gave me permission. Granny visited us at Van Dorts on Tuesdays and we told her we went to see Mr. Mack, the reason being we did not know anything about our properties; after we saw Mr. Mack he got us information about the properties, and he gave me a list.

(Sgd.) N. SINNETAMBY,
A. D. J.

Mr. Herat states that the evidence of this witness given on the 25th February, 1948, which reads :

" he would come for Mass to church the next morning and from there take me away; he also asked granny to keep the deeds ready, the deeds about which she had spoken to Van Dort"

should read :

" we would come for Mass the next morning and he could take me

away from there ; *she* also asked uncle to keep the deeds ready, the deeds about which she had spoken to Van Dort.”

Mr. Hayley does not agree that the evidence given by the witness is as stated by learned Counsel. He states he does not wish to have the record altered.

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Adjourned for lunch.

D. C. 175/ZL

5th March, 1948.

10 (After interval.)

DR. H. C. VAN DORT sworn :

Retired Medical Superintendent. Milagiriya Avenue, Bambalapitiya.

I retired as Medical Superintendent, Galle. Even after my retirement I was in service in the General Hospital. I married twice. By my first marriage I have one son and two daughters. After the death of my first wife I married my present wife who was the widow of one Mr. Hugh Wirasekera, Mr. Hugh Wirasekera being the son-in-law of the late Mr. C. S. Antony and the plaintiff. I came to know the Antonys after my second marriage. I do not know whether my wife after our marriage
20 kept in touch with her first husband's relations but she kept in touch with Imelda. Imelda was living at Whist Bungalow at that time with Mrs. Antony. I married the second time on the 2nd of June, 1943. I understand Mr. C. S. Antony died in May, 1943. Before we got married we went one evening to see Imelda and the old man as she was very anxious to see him as he was very ill. After I married my second wife, the two of us visited Whist Bungalow on one or two occasions. I came to know Mrs. Antony the plaintiff. Relations between Mrs. Antony and my wife and I were ordinary ; they were friendly and cordial. I think Imelda came to my place on a few occasions after we got married. She came
30 once or twice with Simon Stock Antony and his wife. She did not come and spend a week-end, not till she came to stay with us later.

I remember attending a lunch party at Whist Bungalow somewhere in October, 1945. There was no special occasion except that Imelda 'phoned up my wife and said that the old lady wanted her to come there and we arranged and went one day and had lunch there. My wife and I went. There was Imelda, Mrs. Antony and her son was there. He never joined us in the conversation. He came and spoke to us for a few minutes, went away and came again, but he was not with us. On that occasion I remember Mrs. Antony speaking about Imelda. We were speaking things
40 generally, then Mrs. Antony said she was very upset and worried because of this girl and she was anxious that this girl should get settled down before she died. In the course of that conversation she said that there were various suitors after her and there was no particular boy that she liked and that she spoke to this girl about him and the girl said that she could not consent to it unless she saw the boy and got to know him. She

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mentioned who this particular boy was. She said it was Oliver Zoysa's son. At that time I knew Oliver Zoysa. I came to know him after I met him somewhere in the Courthouse or in the outstation. He was an Excise Inspector when I was a Medical Officer working in the outstations. Even before I married my second wife I knew him but not very well. After I married my second wife naturally I came to know him better as my wife knew him very well. As a matter of fact my wife told me that she and Oliver Zoysa went on a pilgrimage to Europe in the same boat.

At the lunch party in Whist Bungalow Mrs. Antony showed her anxiety to get this girl settled. Imelda must have said a few words at that time. I must have asked her "Why don't you like the boy" and she must have said "I would like to know the boy and talk to him" and we left it at that. As regards Mrs. Antony she liked the union if it matured. That was in October, 1945.

I attended the 21st birthday party of Imelda. I do not know whether I was considered more or less her relative. I knew the girl well and I liked her. Between the people at Whist Bungalow and me and my wife the relations were not bad. There was nothing wrong.

(To Court: Q. You won't put it above that? A. I was not friendly with them—usual acquaintance. There was nothing against each other.)

I remember the party at Sir Ernest de Silva's house on January 1, 1946, on the occasion of his receiving a knighthood. My wife and I went there. I met Imelda there. The others who had come from Whist Bungalow were Simon Stock Antony and his wife. I met Oliver Zoysa's son Aenian. Oliver Zoysa and his wife were there. I saw Imelda talk to Aenian. In fact all spoke together and my wife introduced Aenian to Imelda at Imelda's request. She wanted to come to know Aenian and talk to him. I stayed for dinner. The Whist Bungalow party also stayed for dinner. I believe Oliver Zoysa's family stayed for dinner.

30

In 1946 Imelda came to Milagiriya Avenue. She came to stay early in February, 1946. Imelda one day 'phoned up and asked my wife—she said at the old lady's request she was asking—whether she could come and stay with us. My wife asked me. I said there was no room for her but if she could share the room with my two girls she was welcome. I consented and Imelda came. This was on the 4th of February, 1946. I was there when she came. She came in a car with old Mrs. Antony. I spoke to Mrs. Antony on that occasion. She spoke to my wife in the room and said—I was there too—that she had to take this girl out of that place because her life was a misery there, she was not eating, she was all the day sobbing and her uncle was harassing her. When he passed and repassed her he used to make uncouth remarks and she was not very happy. The old lady wanted to have her out of that place for some time and she thanked us profusely for having consented to have the girl. I asked her why this girl's uncle should behave like that. She said that he was not normal, he was a funny sort of man and he was going off at a tangent. I left it at that.

Every week somebody from Whist Bungalow visited her. Every time the old lady came she brought a comb of plantains, some fruits or wine. Antonys were wine merchants also. She used to come on Tuesdays in the afternoon. She said why she used to come on Tuesdays. That was the only day she could get the car telling him that she was going to St. Anthony's Church. Tuesday was the day that all these people go to St. Anthony's Church. From there she used to come to see Imelda. My wife was very fond of Imelda. I too liked her. She was a very good girl. I looked upon her as my child.

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10 After she came there early in February, 1946, I inquired from her, now that she has to get something from her grandfather's estate whether she knows what her share is going to be and things to that effect. She said she did not know anything. I asked her whether the old lady knew anything. She said "I don't think the old lady knows it". The old lady had told her that she asked her son often but that he would not answer. I know the late Mr. C. S. Antony. He was considered a wealthy man. When Imelda told me that she did not know anything about what her interest in the estate was I thought that it was not fair; that the girl should know what her share was going to be and I suspected that someone
20 was going to play her false. I asked her whether she did not think it advisable in her own interest that she should retain a lawyer to watch her interest in the testamentary case, that is, old Mr. C. S. Antony's testamentary case. She said she did not know anything at all, she liked my suggestion but she must ask the old lady, she did not want to do anything without her consent. I told her to ask her grandmother when she came to see her the next time. A few days after that conversation the 'phone rang. My wife took the 'phone and told me that someone 'phoned up from Whist Bungalow and wanted to speak to Imelda—it happened to be a person called Edith—the old lady wanted Imelda and my wife to come
80 over there; her son and the others had gone out for the day. My wife and Imelda went there in my car. On their return I spoke to Imelda. I asked her whether the old lady told her to go to a lawyer. She said that the old lady had no objection and said "it was a very good thing, let Dr. Van Dort take you to a lawyer". Consequent to that I took steps a few days later. This was about the end of February, 1946. About the 1st or 2nd March I took her one evening with my wife to Mr. Mack who lived close by. I explained the situation to Mr. Mack and asked him whether he will undertake as her lawyer to watch her interest in the testamentary case of her grandfather. Imelda too was there. Mr. Mack talked to her.
40 He asked certain things and she answered. He asked her not to be afraid. He agreed to watch her interest and said he will see us in a few days and we came away. A few days after that Mr. Mack gave some information. He came to my bungalow about the 11th or 12th March at about 6-30 or 7 p.m. and gave us an Inventory of the Properties. Imelda was there, I showed it to Imelda—we all read that list. Then Imelda said "It is very funny". She knows her grandfather had Fort properties, 3rd Cross St. properties and Mattakkuliya properties—these are not in the list—surely

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he must have left them—where are they. Mr. Mack said “ these are the only things in the inventory, if you like give some further particulars and I will inquire ”. He took particulars from Imelda and made further search. After about a week’s time, on the 19th, 20th or 21st March he came again and he told us that he searched and found that those other properties Imelda mentioned were all transferred on the 28th February by the old lady to her son and that those lands were transferred by old Mr. Antony to Mrs. Antony somewhere in 1939. Imelda’s reaction was she was sorry. Then I told Mr. Mack that this girl did not seem to know anything ; we will wait until Mrs. Antony comes the following week and 10 we will ask her whether she did this. Mrs. Antony came on the following Tuesday, the 26th of March I think ; then Imelda asked, and we all asked her generally—I asked her ; I know definitely—“ Did you transfer any lands to your son ? ” She said she did not. I asked “ did you sign any deed that your son and his lawyer produced ? ” She said “ Yes, I signed some document ; both my son and his lawyer said it had something to do in connection with my husband’s tea business and that he cannot work it unless I signed ”. And she signed under that impression. Then when I told her “ What nonsense, you have signed away these things ”, she said “ What nonsense, I did not sign any deeds, I did not give any lands ”. 20 She was furious and started rambling, talking agitatedly. She was excited that her son and his lawyer had cheated her. She even expressed a wish to go to Court and find that out, and she went in a rage. I advised her “ I don’t know, if you think it advisable go to Court, but once you have signed I don’t think you can set it aside ; you see what you can do for this poor girl ”. And she left. I advised her to be careful ; I told her not to sign any deed or document in future unless she could have someone on whom she could rely to read it and explain. This was on the 26th of March. That day she said she would come the next week to take Imelda back to Whist Bungalow as Easter was nearing. She really wanted 30 Imelda as she missed her a lot. And Imelda said “ all right, I will see ”. Then she came the following week, also on a Tuesday ; that was the 2nd of April. Imelda got ready to go with her. Mrs. Antony told me then that she had thought about this matter and she was considering whether she should go to Court and set aside this deed that she was made to sign. In the meantime, before her son forced her to sign other things away, she wanted me to get a lawyer to sign away her half share of her husband’s intestate estate to Imelda. I said all right, if you want it done, I will do that. She went away. Imelda went with her to Whist Bungalow.

On the 3rd or 4th April I saw Mr. Mack again and told him what the 40 old lady’s wish was. He said he did not like to write that deed as he was acting for Imelda and he requested me to speak to Vernon Modder. The following day, or must have been the 5th or 6th April, I ’phoned up Vernon Modder one morning and asked him whether he will be able to write a deed of transfer of certain lands that Mrs. Antony wished to transfer to her grand-daughter. If he is able to do it, I told him to contact Mr. Mack who will give him all the details. I heard subsequently that Mr. Modder saw Mr. Mack and he undertook the work. About the lands to be trans-

ferred, the old lady said that it was her half share of the intestate estate ; I mentioned that to Mr. Mack. He had the Inventory of the properties with him. He searched that and found out the properties to be transferred. That was shortly after Imelda left for Whist Bungalow.

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After Imelda left my wife was anxious about the child ; I was also naturally anxious about her ; and I 'phoned up on the afternoon of April 10th, must have been about 3-30, to find out how this girl was and to speak to her. I know these dates because I got a good memory. I noted down these dates for my own information knowing that I was going to
10 give evidence, to connect up the facts. Immediately Imelda came on the 'phone she answered ; perhaps she suspected it was I or my wife who was 'phoning up ; all she said was " How are you, please ask uncle Oliver to come, there is going to be trouble " and she rang off. Then I immediately 'phoned up Oliver Zoysa and gave him this information and asked him to see how this poor child was. I had received no communication from Whist Bungalow either from Imelda or anybody else after she left except this 'phone message. She left on the 2nd April. I do not know whether my wife 'phoned her up in the meantime. I never worried to ask her. Oliver Zoysa came home on the night of the 10th April after
20 having gone to Whist Bungalow. He said that everything was all right there now, everything was quiet. Mr. Rasanathan and Stock Antony were there with some paper or document or deed and they wanted the old lady to sign the thing, and she refused to sign and there was a tremendous hullaballo. Finally Antony tore up whatever the paper was and Imelda picked up small bits of that paper ; but things are all right now and there was nothing to get alarmed about the girl.

On the 11th morning we were anxious about the girl. I went to the hospital for my work and I thought of 'phoning her up at about 9-30 or
30 10 a.m. and find out how she was. Even during this time I was working in the hospital. After retirement I was recalled and I was working from June, 1944, till March last year in the Outpatients' Department as a medical officer. I 'phoned up Whist Bungalow and wanted to speak to Imelda. Stock Antony answered the 'phone and he was very rude and nasty on the 'phone. He said that I cannot talk to Imelda, he was abusive. I rang off. But I immediately contacted Oliver Zoysa and told him what had happened and asked him to go and see how this poor child was. I also 'phoned up the Assistant Superintendent of Police, Mutwal, Mr. Jayatilleke, and told him what had happened. I said that I was refused conversation with Imelda, that I feared harm to her, and I asked
40 him to kindly inquire into that and see that no harm came to this child ; that was all I was concerned with. This was on the 11th morning. When I went home my wife said she 'phoned up too and she was not allowed to talk either. On the 11th night Oliver Zoysa came home ; I was expecting him. At about 8-30 or so he came and told me that he went there, that he had to force himself in, the watcher refused to allow him to go, but he went and saw Mrs. Antony and Imelda and spoke to them, and Mrs. Antony conveyed a message by him to me asking me to get the lawyers to

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—continued.

expedite the transfer of that deed, that she was coming the following morning to sign that deed and that she won't leave without signing it because she was afraid that owing to her son forcing her and frightening her to such an extent she will be forced to sign these things away ; and that she would like to give something to this child before that happened. I naturally asked him how she meant to come. He said " I will arrange all that, she will be walking to St. James' Church early morning, he will send the car there, she will get into the car and come ". And Oliver Zoysa went away. I made arrangements to sign the deed. That same night I went to Mr. Mack, explained things to him and asked him to contact Vernon 10 Modder, get the deed and come home with him in the morning, and that Mrs. Antony will be at home.

On the 12th we were expecting Imelda and Mrs. Antony. They turned up at about 8 or 8-30 a.m. We went in and had tea. While we were at tea Oliver Zoysa came about 20 or 30 minutes later. Soon after tea when we were seated in the verandah Mr. Mack and Vernon Modder turned up. Till then I talked to Mrs. Antony and told her that the proctors were coming, that I had gone and seen the proctors and I was expecting them. The two proctors came and they spoke to Mrs. Antony, explained everything, showed her the deed and explained how things were, 20 I left them to deal with that matter. The draft was shown to her and explained to her. I was there when the conversation was taking place. She wanted to sign. Vernon Modder said " That is not right, I won't allow you to sign like that ; you get somebody on whom you have reliance, one of your brothers, get him to read it and explain it to you before you sign ". Mr. Mack also must have said so, Vernon Modder chiefly, because he was the notary who was attesting the deed. She said what is the use, I have made up my mind, I must sign.

Q. When Mr. Modder said that some independent person should come and advise the plaintiff, did anybody object to that? A. No 30 one objected ; she said " What is the use "; except of course that someone suggested—might have been Oliver Zoysa, Mack or Modder, or perhaps I— " If you don't want any of your brothers, what about the priest. You go regularly to church, you have reliance on the priest, get your priest, Fr. Bourgeois. She said that is all right, get the priest. Oliver Zoysa went for the priest and in the same car he took Vernon Modder and Mack to the office. This may be at 10 or 10-30. They came back with Fr. Bourgeois, *i.e.* Oliver Zoysa, the two lawyers and Fr. Bourgeois, before lunch. Fr. Bourgeois took a seat, Mr. Mack explained everything to Fr. Bourgeois and showed him an extract of the deed Mrs. Antony had signed on the 40 28th of February, and also what she wanted to sign now. He said if Fr. Bourgeois thought it advisable for Mrs. Antony to gift her half share of her husband's intestate estate to this girl, to give that advice ; but if he thought it should not be done, not to hesitate to ask her not to do it. He left it at that. Finally Fr. Bourgeois turned round to the old lady and said " It is quite safe, you are doing the right thing, you had better sign ",

I have no financial interest in this transaction. I was only concerned with the poor child's interest. I felt that she was being cheated. I was interested in her as one of my own children. Fr. Bourgeois read the deed and explained it to her. He spoke to the plaintiff in her language, Sinhalese ; he did not speak to Imelda at that stage ; she was not there, she was with my wife. Before Fr. Bourgeois left he sent for Imelda and told her " look here child, your grandmother is going to leave you her half share of certain properties ; are you prepared to take them and give Mrs. Antony the life-interest in those properties ". She said yes, she was willing. The deed did not contain any reservation of life-interest because I remember well, when Mack and Vernon Modder asked what about life-interest, Mrs. Antony said " What is the use of having a life-interest, my son will take that also ; I have reliance on my girl, she will give me the income ". She did not want the life-interest written. Imelda promised her before Fr. Bourgeois. Then the priest went away. The proctors also went with him, together.

I don't know who paid for the stamps. Before they went Oliver Zoysa went into the sitting room, he followed Mrs. Antony and asked her something ; she opened her bag and gave him a wad of notes. That was also before lunch. They then went away and we sat for lunch, Mrs. Antony, my wife, myself and Imelda. At lunch Mrs. Antony did not express a desire to see Aenian. After lunch when we went into the sitting room waiting for the lawyers, she expressed her wish to see him. I immediately went up to the 'phone and 'phoned up Aenian's uncle who was at the Roman Catholic Mission at Borella, and told him to ask Aenian to come as Mrs. Antony wanted to see him. His father's bungalow was close to the Mission.

Aenian came on a cycle and was speaking to the old lady. Before Aenian came Mrs. Antony had given a ring to Imelda to hand over to Aenian when he came. She had the ring in her bag. At that moment I went there and jocularly told the old lady, " look here, no fear, you take the ring and put it on his finger, then everything is fixed " ; she was shy and coy, she did not want to do it ; she also gave Imelda a set of her husband's silver trouser buttons ; they were also with her. Imelda gave them to the boy. The ring she gave to Imelda who put it on the boy's finger. After that she was talking to the lawyers.

Modder and Mack came with Oliver Zoysa ; they got on to the verandah and arranged to sign the deed. The deed was read out to her and explained—every item was explained, she understood everything ; she was asked whether she understood, she said yes. She said " give me a pen " and she signed the deed. After signing, a very dramatic incident took place : Mrs. Antony took the pen in her hand and said **EH KALAI THAKKADI KAMA, MEH KARANNE YUTHU KAMA**. The deed was signed and the lawyers went away. Mrs. Antony stayed on there because Oliver Zoysa said he would go and leave the lawyers and send the car. She waited till the car was sent back and she went away, at about 4 or 4-30 p.m. She went home and sent in the same car Imelda's suitcase.

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After the signing of the deed, during the remaining days of April she visited my bungalow on Tuesdays. On the day the deed was signed Mrs. Antony expressed her desire to those who were there, not to mention to anyone about the signing of the deed, particularly not to let Simon Stock Antony know about it. She was in mortal dread of the man.

Imelda was to stay with us until St. Bridget's Convent had a vacancy for her which the Mother Superior said she will arrange and let us know about May when the school re-opened. So Imelda stayed on and Mrs. Antony visited her on Tuesdays.

During this time, in the latter part of April, Oliver Zoysa and party 10 went for a change to Bandarawela. While they were away a message was sent by the old lady—it was on a Thursday that she sent the message. Earlier when she came on Tuesday she asked Imelda to try and come to Whist Bungalow to remove her jewellery. I told her that it was not easy for us to bring Imelda there; I was not coming to Whist Bungalow—not for gold. She said she will see what can be done. Then on Thursday or Friday of that week Mendis a young lad came with a message from Mrs. Antony to Imelda to say that the old lady wanted her to come. This must have been the 18th or 19th April. She waited till Oliver Zoysa returned from the holiday, conveyed this message to him and he arranged 20 with someone to take Imelda to Whist Bungalow. I remember the date well, she went on the 27th April. She stayed there till the 19th of May. Then we all took her to St. Bridget's Convent—my wife, herself and Mrs. Antony, she came with two other ladies. Oliver Zoysa came in his car with another lady. We met the Mother Superior and arranged for Imelda being boarded there. Mrs. Antony gave the Mother Superior Rs. 200 on account and she also gave Imelda some money for her expenses.

Between the date of signing the deed and the 19th May the date Imelda went to the convent, I did not mention to anybody about the signing of the deed. I kept it as a secret as far as I could, but unfortunately 30 on the 1st or 2nd May a person called Sonny Fernando, who pretended to be a great friend of Imelda and watched her interest intimately, came one morning and saw her. As the hour was getting very late—it was 12 or 12-30 p.m. I called Imelda inside and asked her who this young man was. She said he is a good man and knows the family well. Then I invited him to partake of lunch. He had lunch with us and in the course of the conversation—I thought he was an honest man, he was so concerned with Imelda, he even suggested that there was a talk that this girl's things were being robbed by her uncle and he must see that the old lady gives her something—I accidentally said “Don't worry, she has signed away 40 what she has to this girl”.

After May, 1946, Imelda used to visit us, I remember she came and spent the Christmas with us. She looked upon my house as her home.

I was a witness to this deed. Oliver Zoysa was the other witness. I am not spending for this litigation. I offered to spend for the poor girl's sake but Oliver Zoysa said he will spend as she was his. I have absolutely no pecuniary interest in this case. Even if I do get anything I won't take it. I want to see that justice is done by her.

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To Mr. Cyril Perera—(No questions).

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Cross-examination : I said I would not take anything even if I do
10 get. I do not anticipate anything. In this particular case it did occur
to me that someone might offer me something ; it just passed through my
mind. I don't think anyone would offer but I just made that remark.
I don't want to have anything to do with that bungalow, property or
estate. My action in the matter was to try to do an act of social justice
to this poor child. I call her a poor child because she is a helpless child.
She has no money with her yet. I am aware that she is the heir in her
own right to a quarter of the estate of the late Mr. C. S. Antony. It is a
fairly big estate. If I am entitled to a quarter share of this estate I would
be pleased but until I have the money I would certainly be poor ; I would
20 like to call myself a poor man until I receive the money. I would not
expect to receive a share of the estate immediately the man dies without
it being administered.

I do not keep a diary. I keep notes here and there to refresh my
memory, just in bits of paper, and I keep them in the drawer and then
tear them up after a short time. I write down anything that interests
me. I said I had been looking up for the purpose of this case all the facts.
I did not make notes as such. I just took a bit of paper, thought, wrote
certain dates, memorised them and destroy the paper immediately. I
don't do that regularly. Whenever anything important occurs when I
80 have to refresh my memory I do so. I admit I have to refresh my memory
from an actual date and not from something that I actually do not know.

Q. How did you in 1948 remember the date 19th May, 1946 ? A.
In 1946 the child came to me and I knew that. I knew that a few months
before she came to me we went to Whist Bungalow. I recollected and
realised that it was October, 1945, that we went to Whist Bungalow. The
girl came to me early in February, 1946. Then I remembered well that
somewhere in the end of February, 1946, my wife and she went to Whist
Bungalow at Mrs. Antony's request and then, on the 1st or 2nd March,
I remember well I took this girl to Mr. Mack. That took me on to 1946
40 and I worked on that.

All this is just a feat of memory. You can call it pelmanism if you
like.

I went to the birthday party too. I have no note of it anywhere. I
said I made notes to refresh my memory. I knew I was giving evidence
in the case and I just wanted to be exact in what I said.

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Q. About a week or fortnight ago you sat down to think what you were going to say? A. Yes.

I did not give a statement to the proctors. The lawyer asked me what I know about the case, about all these details and I told him what I related just now. Mr. Mack asked me that. I told Mr. Mack all my evidence. He might have written it down. I did not see him write, I myself did not make any written statement. I did not help Imelda to make a written statement. I know subsequently she did but I did not see what she did. I learned that she did it after she gave evidence the other day. I read the evidence she gave. A copy of the Court record was shown to me, not all the evidence in the case. I did not read any other evidence. I read only Imelda's evidence. I saw that copy after the first day she gave evidence. It must be a few days later after a copy of the record was obtained from the Court. I went to Mr. Mack's office in connection with some other business and he showed me this evidence. I could not say whether that was a Wednesday. I went to the proctor's office on some day last week—Friday or Thursday. I am sure of that. I could not say whether the copy was typed.

Q. Surely if you read it you must remember that? A. It was a typed copy. 20

Up to date I have given Imelda no assistance in making her statement and I too never made a written statement. I told Mr. Mack generally what I was going to say. The case was filed in June last year and I think Mr. Mack asked me somewhere about July and then again he asked me recently and then I related to him what I knew. I gave him a general account of what I knew about this case. That was a pretty full account, as much as I told the Court now. When the trial began Mr. Mack may have been in possession of that. I know that Fr. Bourgeois gave evidence. As a witness I was outside on the day Fr. Bourgeois gave evidence. I saw him giving evidence. At the time he gave evidence I had already told Mr. Mack what I knew about the case. 30

(To Court : When I say I saw him giving evidence, I saw him in the box ; I did not hear a word of what he said, I was outside.)

I did not read his evidence. Imelda did not tell me about Fr. Bourgeois' evidence. Oliver Zoysa, Mrs. Zoysa and the others who were in Court came and related what Fr. Bourgeois said. There was a confused jumble of what he said and I never paid any attention to it. My wife was in Court only for a short time on the first day. As Fr. Bourgeois was giving evidence my wife was asked to leave the Court. I was interested in the case. I did not want to get information from others. I did not understand that he said directly against what I said. I do not know what he said. No one gave me a detailed account of what he said. 40

With regard to Sonny Fernando I do not know him at all. Even now I do not know who he is. Even if I see him in Court I will not be able to recognise him. One day he suddenly turned up in my house. After that I did not hear of him nor did I see him. He was about 25 or

26 years old. He suddenly came and had a long talk with Imelda down-
stairs in the verandah. When I came down she was speaking to him. I
believe I was introduced to him. I just wished him and left them to chat.
It is not unusual for a young man to go and talk to an unmarried girl. I
suppose he was a relation of hers' I gathered that he was some relation
of someone of her own people in that area. I believe he knew her when
she was at Whist Bungalow and that he was some relation of the Antonys'.
She did not tell me that. That was what I gathered at that time. He
pretended to take such an interest in the child that I gathered he was a
10 relation. I do not know whether he thought she was a poor child. He
was not matrimonially interested in her; he was concerned with the child
not being deprived of what she should get and he pretended to be taking
an interest in the child's future.

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Q. Up to that time what had she been deprived of? **A.** By then she was deprived of her half share of those Fort properties, Bailie Street properties and things like that.

By then certain properties were transferred by Mrs. Antony to her son, a half share of which I really felt Imelda as the only child of her daughter should also have received. I felt she was deprived of that. It
20 never occurred to me that Mrs. Antony might choose to give one property to her son and one to her grand-daughter. I thought that was not fair.

(To Court: The entirety of the Fort property was in Mrs. Antony's name. It was not in the will. The grand-daughter was entitled to half her share.)

I have no idea of the value of the properties. I was not told that the properties transferred to the son were subject to a mortgage. If I had been told so I would not have thought differently. In spite of the mortgage the value will be there.

Q. Would it have altered your view if you understood that the prop-
30 erties were mortgaged to Rs. 145,000? **A.** No, it would not have altered my view.

Q. The property was transferred because of the mortgage and the mortgage had to be paid off? **A.** It would not have altered my view.

The deed that was signed on the 12th April in my bungalow was removed, I think by the lawyer to have it registered. I do not know what happened to that. I never inquired. I need not have asked, it was in safe-keeping somewhere I did not want to keep it.

Q. Did you think, perhaps it would be a good thing if Imelda had it? **A.** I did not—may have been.

40 I did not ask Oliver Zoysa what happened to it. I am not aware what happened to it.

Q. Have you heard that that deed is gone? **A.** I have not. This is the first time I hear it.

Imelda was living in my house as a protege of me and my wife and I looked on myself as responsible in looking after her. I took an interest

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in getting this property transferred to her. I did not take any great interest in it at all. I would have felt sorry if Mrs. Antony had not given her anything.

Q. Although you took all the trouble to collect the party in your house and have this deed signed you had no interest in what happened to the deed after that? A. Yes.

Q. To Sonny Fernando during the lunch you suddenly began talking about the deed? A. I did not talk about the deed. At an unguarded moment I said that Mrs. Antony had already gifted this girl a half share of some of her properties. 10

Q. Why did you tell that? A. Mrs. Antony when she signed the deed asked us not to mention it to anyone, much more not to let her son know and then unfortunately at an unguarded moment when this boy came in, when he said that he is interested in seeing that the old lady gave something more, I said this.

This was on the 1st or 2nd of May. Up till then I did not talk of this to anybody. Mr. Oliver Zoysa also did the same. He is not likely to have talked about it. Imelda also is not likely to have told this to anybody. Nor my wife nor any of my daughters or members of my household. Mr. Mack and Mr. Modder they too would not have talked 20 about it. As professional men they should not. I believe there was no method by which anybody could know that the deed was executed on the 12th April until I told Sonny Fernando. There was no other way. There is no reason why anybody should know until Mrs. Antony told it.

Q. Up to the time of this unfortunate incident, so far as you can think of the case, no one could have known of this deed until you told Sonny? A. No, not unless someone went to the Land Registry and made search or anything like that.

As far as I know there was nothing to make anybody go to the Registry. 30

Further hearing adjourned for 12th March, 1948.

(Sgd.) N. SINNETAMBY,
A. D. J.

175/ZL

12th March, 1948.

Appearances as before.

Mr. Hayley brings to my notice that his proctor on record Mr. Jayasekera is dead. He however states that all arrangements have been made for a fresh proxy to be filed and it will be filed immediately the plaintiff comes into Court; plaintiff is at the moment not in Court.

Learned Counsel for the others have no objection to the case proceeding on the footing that a proxy will be filed today. On the assurance of Mr. Hayley that the proxy will be filed I have decided to continue with the case. 40

Errors in previous day's proceedings corrected.

DR. H. C. VAN DORT sworn.

Cross-examination—contd. : I cannot tell who kept this deed after it was signed by Mrs. Antony. I do not know who had the deed till it was shown here.

I have two grown-up daughters, children by my first wife. They are in London now. On April 12th, 1946, they were living with me. One was working in the R. A. F. and the other in the Navy. When the deed was being signed, during the whole of that day, my two daughters must have gone for work. I have no recollection whether they came home for
10 meals. They work certain hours, sometimes they don't come home for lunch. They both left early for work; they were not there when the proctors and all the others came that day. I don't know whether they came at any time that day when all this was going on.

I think they left my home by the end of April. Before they went to England they were staying outside for some time, somewhere in Kollupitiya. The two of them wanted to go to England and asked me whether I would help. I said I could not do it just now and asked them to wait till things were easier in England. They had an obsession to go to England and when I went to my estate they had vacated their rooms and left me
20 and gone. They had their own means when they lived at Kollupitiya. They left as there was this obsession to go to England. I considered it a midsummer madness for me to arrange to send the two girls to England at this time. I won't say that I had a quarrel with them; it was just father and daughter not agreeing. They did not leave the house in a rage.

Q. Why should they leave your house and go by themselves to England? A. I cannot answer that.

They were not angry with their stepmother. It was not because they did not want to live with their stepmother. They were in very good terms with her. They are in very good terms with me. The two girls write to
30 me regularly once a week. They did not disappear from my house, you can call it disappearance if you like.

Q. I am asking you why they left your house while you were in Bandarawela? A. Except that they asked me to go to England, I refused to send and they felt if they were under my roof they could not go. So they thought of being outside and going on their own.

They did not tell me that they were moving in for lodgings in Kollupitiya before I went to my estate. I do not know where they lived; they found lodgings somewhere in some lady's house. All this time they were friendly with their stepmother—no quarrels at all. I saw them before
40 they left home. They came home. I went to see them on board ship. One was Audrey and the other Enid. Before Audrey went away she never told me that she had an interview with Stock Antony and told him what happened on the 12th April; it is news to me. I don't think she would ever have done a thing like that because she had no love or affection for Antonys at all. As a matter of fact she did not like them coming to my house. at all Yes, it would not be nice of her to tell Mr. Stock Antony all that happened on the 12th but she did not know what happened.

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I had a servant about this time who happened to have the name C. S. Antony. He was with me off and on since 1911. He might have been in my employ when this deed was signed, or I might have sent him away earlier. I dismissed him. I think it was before the deed was signed. I dismissed him for dishonesty, insolence to my wife and what finally made me to send him straight away was when he stole a rosary, he himself being a Roman Catholic and I thought if he can rob a rosary he can rob anything. I do not know whether the whole household loved Imelda; I know I did, my wife did and I think the servants did.

I remember telephoning Inspector Jayatilleke at a certain period.¹⁰ That was on the 11th April. I told him that I was rather worried of Imelda's safety. Before that Mr. Oliver Zoysa reported about the interview of Whist Bungalow. He said everything now seemed to be very quiet and we will await developments. He said nothing to worry about Imelda. Yet on the morning of the 11th I felt uneasy. Although he said that I felt that Simon Stock Antony will go off the deep end at any moment, so I just wanted to inquire after her. Simon Stock Antony and I were never great friends. He did not give me lifts in his car. I have my own car. He did not give me a lift one day when my car was broken down. I remember an incidence, one day when he was going to Bandara-²⁰wela to bring his two children to school, he asked me whether I would like to accompany him. I said I don't mind. I had my estate on the way. I went half way and got down at Balangoda where my estate was. I thought it was nice of him. I think this was somewhere in 1945, may be the end of 1945. Before the end of 1945 I did not know the Antony family except that after I got to know Imelda I visited them once or twice and they came home and we were rather chummy. I would not say we were very good friends. They never gave me any presents. C. S. Antony's wines were brought to Imelda by the old lady when she came to see her. Stock Antony did not give me any wines, nor did he give my wife. Stock ³⁰ Antony and his wife used to pay a few visits to my house. Every time they came they came with Imelda. When he went to Bandarawela he took me and I waited in my estate till he came back with the two children and I came back in his car. After Imelda came to stay at home and she related his behaviour towards her, and Mrs. Antony during her weekly visits also related what sort of a son she had, I thought Stock Antony will do physical harm to the girl. She sometimes used to say "okata pissu hedanawa". She spoke in Sinhalese. The old lady spoke to Imelda in Sinhalese. From that time I began to be suspicious that he was not playing fair by his niece. I thought he would probably kill her if he got a ⁴⁰ chance in order to take the whole estate. I thought he might shoot her. Anything is possible from a man of that mentality. I do not remember seeing him in a fit. I had no occasion.

Q. You thought he might shoot with a revolver? *A.* I do not know what weapon he uses.

Imelda told me that once he said he will shoot my wife with a gun and brought the gun out and went on wiping it. She told this to me when

she came to stay with me finally, that is, on the 12th morning. This incident happened a day before that. He was threatening to shoot my wife if she went to Whist Bungalow and if he sees her there. My wife did not go to Whist Bungalow, never has an intention of going there.

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After the 12th April Imelda lived with me until she went to the convent. Mrs. Antony went away that evening after the deed was signed and she used to come every week on Tuesdays as I said before. During that time I did not see any more of Stock Antony nor did my wife.

Q. Do you remember on the 15th April Imelda writing a formal
10 letter to the Government Agent saying that Stock Antony had threatened to shoot your wife with a gun? A. I don't remember the letter being written at all.

The deed was signed on the 12th. I went to my estate on the 14th and returned on the 16th night. On my return in the course of conversation my wife said that after she heard what Imelda told her that her uncle took his gun out and wiped it and wanted to shoot my wife she was so afraid, and I was also away, and Imelda gave a statement and she wrote to the Government Agent asking him for protection. I believe it was on the 15th April. My wife showed a copy of that letter. I said now that
20 you have written let it stand, personally I would not have worried about it.

(Shown a document): This is copy of Imelda's statement handed to my wife and she wrote a covering letter to the Government Agent. (Mr. Hayley marks this letter P19).

Mr. Stock Antony has sued my wife for damages in Rs. 10,000. That case is pending. During the 14th and 16th when I was in the estate my wife and Imelda must have suddenly thought of writing this letter. She must have been afraid as she was alone and she was a nervous lady. I do not agree with her. It was her feeling of mind that made her write that.
30 If I were there I would not have allowed her to write that. I am aware that police went and made inquiries from Mrs. Antony because they wrote to my wife. There must have been an article in the paper; I did not read. I did not dictate that letter to Imelda. I do not know whether my wife dictated it. She never told me she did. I did not 'phone up the police and find out what they had done. I know that the police went there because eventually I think the Government Agent wrote a small reply to my wife saying that they have inquired into that and no further action was necessary. He did not say that Mr. Simon Stock Antony was a man of perfectly good character; I do not know what they had in their endorse-
40 ments but I remember these few lines to my wife. I did not discuss this with my wife before I went away.

Q. I suggest that the whole thing was got up by you and your wife?
A. I did not.

Q. To try and frame a case in case an action on the deed came up?
A. I deny.

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Imelda told me about this alleged threat to shoot. She did not tell it to me on the 12th morning—perhaps on the 12th night. My wife was there too. We were all there speaking when she said this. Between the 12th and the 15th nothing had happened at all. I went on the 14th, I do not know what happened between the 14th and the 16th.

I first heard the suggestion that Imelda should marry Aenian in October, 1945; that was at the lunch on the invitation of Mrs. Antony. She said there were various suitors. She did not mention other names. Mrs. Antony may have seen the boy often. She must have known the boy.

When I first told Mrs. Antony that she had signed a deed in favour 10 of Stock Antony she wanted to go to Court. I conveyed the information given to me by Mr. Mack. Her first reaction was despondency. I felt it was not fair that she should give all she possessed for one child and nothing for the other.

Q. Did you understand by that deed which Mr. Mack told you of that she had given all she possessed to Stock Antony? A. All she possessed by her own right other than what she was going to inherit from the intestate estate. That is, those she had which were not in the intestate estate.

I do not know whether it would be a right thing if she had gone to 20 Court; that was her business. She asked me what she was to do. I said personally I would not do anything like that. I advised her not to do anything because I felt it will not be easy to upset a gift that has been given. It is useless expense, one thing. I told her that if she wants to go to Court she must go to a lawyer. Her going to a proctor at once was not based on what I said. It was just an advice that she asked me and I gave her; what I would have done I told her. It was after that that she told that she wanted to transfer her share of what she is to get in the intestate estate to Imelda. I thought that was an excellent thing; it was only fitting. 30

Q. Would you like to sign away the whole of your property to one of your grand-children? A. I wouldn't.

I have property. I got a few acres at Magala—about 40 acres. I have my pension and some money and things like that. I have about about half a lakh or more in shares.

Q. Would you like to sign all that away to a grand-child of yours? It would depend on my feelings towards the grand-child.

It was Mrs. Antony's wish to transfer her share to her grand-daughter. She said she wanted to do it. I deny that it started with my egging on Imelda. I told Imelda to ask her grandmother whether they should not 40 get a proctor to look into it.

Q. If you did not tell that there would be no question of Mrs. Antony transferring her properties? A. I do not know. It would have happened in any case,

When she said she wanted to transfer her properties I did not at once 'phone up Oliver Zoysa or Aenian.

Q. They would be lawfully interested that the son was going to get all this property? A. I wonder ; I don't think they would.

Q. Did you not think it advisable to go and discuss this with Stock Antony? A. I would not talk to him, I would not have done it. That was her business entirely. I was not interested in the matter at all.

I was rather sorry that all this was taking place in my house. I had to. The poor girl was under my care and protection and Mrs. Antony had nowhere to go to. She came there with the girl and what she wanted to do she wanted to do it there. I never engineered anything. I would rather not have had anything to do in the matter. I did not suggest to go to Mr. Mack's office. She brought the child to my house and she expressed a wish to have it at home. And I did not object, I saw no harm.

I said that Oliver Zoysa gave me a report on the 10th evening and I spoke of a tremendous halabaloo. The halabaloo was this from my recollection of what Oliver Zoysa said, that on the 10th afternoon at about 3 o'clock Stock Antony with his lawyer, having read through some papers, wanted the old lady to sign them. She refused to sign and she ran out of the room and the son chased her, dragged her by her arm and then others went to interfere—he did not say who the others were but he said the others who were there—and in the course of that Mr. Rasanathan had a white coat or some coat in the arm torn. And later on when Imelda was walking up and down the hall she saw bits of paper strewn on the floor—and I gathered from what he said—she picked them up. This does not suggest that Oliver Zoysa was there. This is all what he heard from Imelda.

I stated that after lunch Mrs. Antony expressed a wish to see Aenian. I said I will try to contact him and 'phoned up. This was all to fill up time until the two proctors arrived. After lunch we were seated down and she expressed her desire. Aenian came on my 'phone message and after lunch. He remained there some time and went. I cannot exactly say when he went. He must have left about evening 5 o'clock. I do not know whether he watched the deed being signed. My recollection is that he was also there or he must have come after it was signed.

Q. If he came after it was signed it was not filling up the interval in which you were waiting for the lawyers? A. As far as my recollection goes Mrs. Antony expressed her wish to see Aenian after lunch ; I 'phoned up and Aenian came ; when and what hour he actually came I have no definite recollection.

40 On the last date I said I was shown a copy of Imelda's evidence when I went to Mr. Mack's office in connection with some other business. The other business was, Mr. Mack was dealing with my house property. The owner of my house had given notice to quit and I went to ask him about it. Mr. Mack had done a lot of work for me for some years.

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At a certain period Mr. Mack had found out something about a deed executed by Mrs. Antony in favour of her son. He told me that some time on the 19th, 20th or the 21st of March. I did not go off and tell Mrs. Antony. I asked Imelda who was at home. In point of fact he made the search at her request.

Q. Can you tell me exactly what happened from the 11th onwards?
A. 11th what? 11th April.

(Mr. Hayley says he has the proxy of the plaintiff in favour of Mr. Goonetilleke. He and his learned Juniors appear instructed by Mr. Goonetilleke.)

10

(Imelda's Evidence put to witness.)

Q. Imelda has told us that Oliver Zoysa on the 11th told Mrs. Antony to bring with her on the 12th morning the deeds which she had spoken to you—what were the deeds which she had spoken to you? A. She told me on April 2nd when she came to take Imelda back for the Easter season to engage a lawyer and get her half share of her husband's intestate estate written up in favour of Imelda. That was the deed evidently she was referring to.

Q. Imelda said that there were deeds which the old lady was to bring, you had asked her to bring? A. I did not ask her to bring any 20 deeds. I did not speak to her about bringing deeds.

Q. You cannot understand what deed she was speaking of? A. The message that Oliver Zoysa conveyed from Mrs. Antony to me was this: Mrs. Antony wanted Oliver Zoysa to tell me to ask the lawyers to get the deeds she spoke to me about ready for her signature and that she was coming the next morning. That is what Imelda evidently refers to in her evidence.

Q. When Mrs. Antony came on the 12th morning did you tell her that she had signed away property worth 7 lakhs? A. I never mentioned anything about lakhs. I never told her anything. 30

About her own properties that she signed she knew the value of those properties. She did not tell me that she signed any deed. What she told me on the 26th March was that she was made to sign some document by her son and Mr. Rasanathan also told her to sign it saying that it was in connection with her husband's tea business, otherwise the son could not carry on his business and under that impression she signed. She did not say she signed a deed as such.

Q. So you instructed Mr. Mack to look for deeds? A. I did not. Imelda instructed him; she instructed him to look for certain lands which she knew her grandfather had which were not in the Inventory. 40

Before the 11th Mrs. Antony must have been quite determined to give all her property to Imelda because I got that message on the 9th. She also asked me to get the deed ready on the 2nd April. Mr. Mack had not been so instructed but Mr. Modder was instructed by Mr. Mack. I did not instruct Mr. Modder.

Q. Had you instructed Mr. Mack? A. I conveyed Mrs. Antony's wish to Mr. Mack. Mr. Modder was content to take that instruction from Mr. Mack. He was not going to execute the deed till he met Mrs. Antony. Mr. Modder said he was going to have the deed ready but he wanted to meet Mrs. Antony before finality was reached. He could not have attested any deed without the person signing it being present. By the 11th night Mack and Modder had been instructed to have the deed ready and that it was all to be done on the 12th morning. Mrs. Antony was quite content and knew fully well what she was doing and she was determined to do it; 10 that was what she conveyed to me. On the morning of the 12th all these people were to come to my house. The proctors were to bring the deed to be signed. Mrs. Antony came at about 8-30 a.m. The deed was signed at about half-past two or three—not at 5.

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Q. What was the reason for all this coming and going of people and all that waste of time between 8-30 and 3 o'clock? A. How can I answer that; except that Mrs. Antony wanted to see Fr. Bourgeois and Fr. Bourgeois was sent for. He spoke to Mrs. Antony and he went away; the two lawyers went away and came back and then it was signed.

Q. Why could not the deed be brought and signed at half-past eight 20 and finished off by 9? A. I had nothing to do with that; that you must ask the lawyer. It is not that I cannot understand why. Mrs. Antony expressed a wish to see Fr. Bourgeois and they did not get anything further done until Fr. Bourgeois came. She wanted to see the Fr. because Mr. Vernon Modder said that she should get some independent person who was interested in her and ask for his opinion and advice as to whether she should transfer her properties. It was then she said she did not want to meet anyone, she had made up her mind.

Q. So that the whole house was in a turmoil—people coming and going? A. No turmoil; they came and went away.

80 Mrs. Antony was not shouting a lot. If Fr. Bourgeois said that Mrs. Antony kept on shouting, that I had told her that 7 lakhs worth of property had been transferred, he cannot be speaking the truth. The old lady was smiling. The proctors went with Oliver Zoysa in his car when he went for the priest. I do not know why the proctors went away. Mrs. Antony was there from 8-30 to 3. She was not smiling and seated all the time like a lunatic; she was talking to us, she was behaving in the ordinary fashion in the house. I did not tell her that property worth 7 lakhs had been transferred to her son. On the 26th of March I conveyed to her the information that Mr. Mack gave us. Mr. Mack said that he got the 40 information after he made search in the Land Registry. I believe that was the only way he could have got the information. In all these transactions about getting the deeds signed Oliver Zoysa had nothing to do. Nor had Aenian to do anything. Apart from that this was the old lady's wish. The idea emanated from her. Her first reaction when she got the information I conveyed to her that Mack gave me, was, she was angry and furious. I did not discuss the matter at all with Oliver Zoysa. When Mrs. Antony removed Imelda to Whist Bungalow on the 2nd April then

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Oliver Zoysa came home and I told him of the old lady's wish. On the 2nd April he was aware that Mrs. Antony had wanted this done. We were speaking about it. Oliver Zoysa, my wife and I were not spending our whole time to see that this property was transferred. I conveyed this message to the lawyers and I gave no further attention to it. When Mrs. Antony came on the 12th morning I did not produce a deed to show what she had transferred to Stock Antony. I deny that I did so. When the lawyers came they produced extracts of a deed that she was made to sign on the 28th February. Extracts means little passages. I saw them explaining that to Mrs. Antony. She was told that she had signed these 10 things away to her son on the 28th February; things to that effect were told her—not by me.

Q. Those were the deeds you asked Mrs. Antony to get? *A.* I did not ask Mrs. Antony to get any deeds. I do not know what Imelda meant by saying that we were discussing deeds. We were speaking about the deeds after Mrs. Antony had signed; she must be evidently referring to that.

I know about Mr. Modder. I know that he is a lawyer. I knew him as a school boy and we were friends. I did not suggest to him that it would be a good thing if he went and asked Mrs. Antony's son about this 20 transaction. Mr. Modder was not working as Mr. Mack's assistant. He was practising independently. I first asked Mr. Mack whether he would do the deed. He said he would not like to do it as he was watching Imelda's interest in the testamentary case and he recommended Vernon Modder.

Q. Did you take any interest to find out whether this poor girl will be well represented by Mr. Modder? *A.* Mr. Mack was there to watch her interest.

I knew Mr. Modder was a man of standing in the profession. I heard nothing contrary about him. I did not hear that he was bankrupt or 30 insolvent.

Q. You could not have made much inquiry if you did not know that he was an insolvent? *A.* I knew that he was practising as a Notary and lawyer. I knew him from my school days and when Mr. Mack suggested his name I 'phoned him up and asked him to do this work.

Q. Don't you really think it is a dreadful thing to get an old lady to come to your house and sign deeds with two strange proctors? *A.* I did not get anything done. She expressed a desire to come and do it in my house and she did it, quite spontaneously. I did not think that there was anything at all improper. 40

I do not know whether she went out of my house penniless. I do not know how she went out.

Q. After coming to your house on the 12th, if this deed stands she will not get a cent for the rest of her life? *A.* I was not aware of that; it did not occur to me; I did not think of it.

Imelda came and told me when she was going to get married. Oliver Zoysa also came and told me. We all went for the wedding.

Q. After the wedding was over did you or Mrs. Van Dort get any payment from Oliver Zoysa? A. Not a cent.

Q. Any payment for arranging the marriage? A. Not at all. We did not arrange any wedding. I was not hurt because I did not get anything. I would have been hurt if they offered anything.

Re-examined—Nil.

(Sgd.) N. SINNETAMBY,
A. D. J.

10

W. DON WILSON sworn. Clerk, Eastern Bank, Colombo.

Our Bank has been summoned in this case. I produce the safe deposit department receipt dated 29th April, 1946, marked 1 D5 and 1 D5a showing that a safe deposit had been opened on that date by Mr. & Mrs. Oliver Zoysa and they obtained a safe in which we deposited anything they gave us. I do not know what was deposited in the safe.

To Mr. Cyril Perera : No questions.

Cross-examined.—I understand these documents. This means that Mr. & Mrs. Oliver Zoysa for the first time hired space in the safe. People generally hire it to put things for safe-keeping.

Re-examined—Nil.

(Sgd.) N. SINNETAMBY,
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P. D. A. MACK sworn. Proctor S. C. and Notary Public. I have been in practice since 1917. I practice under the firm name of P. D. A. Mack & Sons.

I know Dr. Van Dort. I remember some time in 1946 when Dr. Van Dort contacted me in connection with certain work to be done. He first contacted me I think towards the end of February, 1946. He came with the 1st defendant to my bungalow one evening. He wanted me to look into the testamentary case of the late Chevalier Antony, the 1st defendant being the grand-daughter, to find out what she would receive and all details in connection with that. He told me who the 1st defendant was. I spoke to the 1st defendant. They wanted my services as a proctor to watch her interest in this testamentary case.

(To Court : 1st defendant was a respondent to that case. I have filed a proxy in that case.)

Apart from that I was to find out what property she was entitled, what property she would receive, and so forth.

40 1st defendant told me that she got no income from the testamentary case. I was generally to find out what her position was. I applied for the record and I made a list of the properties and told her that she would

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be entitled to a quarter of the estate after the administration and gave her particulars of the properties as well as the immovable properties. That is, I made a copy of the Inventory and what had happened in the case. I either went to Dr. Van Dort or they saw me, but I met them thereafter.

On the second meeting I showed the 1st defendant this list and then she intimated that her grandfather had other properties and wanted to know whether those were included. I said that this was the sum total of what was included in the testamentary case. She said that there were properties in the Fort and the Pettah none of which were there. I said 10 I will go and make a search in the Land Registry to see what the position was in regard to these other properties. As for particulars, she gave me the numbers of the properties in the Fort and Pettah. I made search in the Registry and I ascertained that these properties had been transferred by Mr. Antony to Mrs. Antony several years previously and that they had been transferred by Mrs. Antony I think on the 28th February, 1946, to her son. I made a note of my search and I passed that information over to the 1st defendant at Dr. Van Dort's. I met them personally. I cannot say whether she came to my bungalow or whether I went there. That would be the third meeting. When I gave that information the 1st 20 defendant said that she did not know anything about these properties belonging to the grandmother and she would speak to the grandmother about it. On that occasion matters were left at that state. The third meeting was about the middle of March, 1946. After that, towards the end of March Dr. Van Dort 'phoned me up and wanted me to undertake the drawing up of a deed of gift by Mrs. Antony to her grand-daughter of her half share of the properties in the testamentary case. I told him that I did not like to do that because I was acting for the grand-daughter and that the old lady should secure somebody else for that purpose. I cannot say whether I suggested somebody or Van Dort suggested but Mr. Modder 30 was selected to do this work. By that time Mr. Modder had just returned to practice after serving as an officer in the Army. Dr. Van Dort said he would get on to Modder and entrust the work to him. Later Mr. Modder contacted me and I gave him all the particulars. That will be the 7th or 8th of April. After that Modder and I went down to the Land Registry and he got the particulars of these properties for drawing up this deed of gift. Then he was getting the deed of gift ready. On the night of the 11th I think Dr. Van Dort either came and saw me or sent a message that Mrs. Antony wanted this deed signed the next morning and that he had also seen Modder to ask him to get the deed ready on the next day. Then 40 we went to Dr. Van Dort's the next morning—Modder and I. We went in a car, I cannot say whether it was my car or Modder's. Modder used to live very close to my bungalow those days. Both of us went to Dr. Van Dort's bungalow in the morning and Mrs. Antony was there and she wanted to sign the deed of gift. I spoke to Mrs. Antony and she was prepared to execute the deed of gift. I spoke to her in Sinhalese. Mr. Modder also spoke to her. Then Mr. Modder said that as he had not met

Mrs. Antony before, he would like to get the deed explained to her, and the fact that she was parting with her interest in these properties was fully explained to her before the deed was signed. He could not do it himself; being a Notary I suppose he desired some independent person. The desire was expressed to have some independent person. Mrs. Antony said she did not want any explanation, that she had come prepared to do this and that she had given instructions to Dr. Van Dort to get this ready. But Mr. Modder insisted on somebody explaining it to her and it was decided to get Rev. Fr. Bourgeois to come and explain the deed. I think
 10 several names were mentioned of her brothers but she did not want her brothers and then Fr. Bourgeois' name was mentioned and she agreed. I do not know who suggested Fr. Bourgeois' name; whether it was Modder or Oliver Zoysa. Oliver Zoysa was there. I cannot say how he came there. He did not come with me.

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Mr. Zoysa said he will go and bring Fr. Bougeois and he took Modder and me also to Fort where we got down, and we asked him when bringing Fr. Bourgeois to pick us up, which he did. We went to our office, Modder and I. The deeds were being typed at that time—in the course of pre-
 20 paration 2nd defendant went away to fetch Fr. Bourgeois. He came back with Fr. Bourgeois in the car; Modder and I joined and we went back to Dr. Van Dort's bungalow. Then we explained the position to Fr. Bourgeois and said that Mrs. Antony wanted to gift these properties to her grand-daughter but that we desired him to explain the matter to her so that no prejudice was caused, and gave him all the facts. He explained everything to Mrs. Antony.

(To Court : He explained in Sinhalese ; I rather think it was Sinhalese. I was present at that time. Mrs. Antony does not talk English, not very much anyway.)

Fr. Bourgeois explained that by this deed these properties were to be
 30 gifted by her to her grand-daughter. He mentioned what the properties were. A copy of the deed—may have been a draft or a copy that was used as a protocol, I cannot say which—was available and was with Fr. Bourgeois. He read it first. There was a talk of a life-interest. The old lady said she did not want any life-interest reserved.

Q. Who suggested the life-interest? A. I think it was Fr. Bourgeois.

He suggested that she should reserve a life-interest, but she said she did not want any life-interest because it would be taken away from her and that she was quite content to leave it to her grand-daughter; she had
 40 not the slightest doubt that Imelda would give her what she wanted out of the income. She said if she kept a life-interest it would pass on to her son. She said she could trust the 1st defendant. Fr. Bourgeois called the 1st defendant and explained to her that although the life-interest was not reserved she must recognise that all the income of the properties must go to her grandmother during her lifetime.

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He asked her to promise and she did promise. After that Fr. Bourgeois wanted to go away. Then Mr. Modder mentioned the question of stamp duty and by that time Mrs. Antony had gone inside the drawing room and he went in and talked to her and came out and said "that is all right" and we got into the car and went back to Fort. That is, Mr. Zoysa, myself, Modder and Fr. Bourgeois got into the car. I got down at Negriss Building—I don't know whether Mr. Modder got down. I think he and Mr. Zoysa went to purchase stamps. Fr. Bourgeois was taken back also by Mr. Zoysa. First I was dropped in my office at Fort. I rather think Mr. Modder also got down and waited till Oliver Zoysa drove 10 Fr. Bourgeois and came back. Mr. Zoysa and Mr. Modder went to fetch stamps. At about 2 o'clock they came back and picked me up and went to Dr. Van Dort's bungalow and then the deed was signed. The deed was read and explained. The witnesses were Mr. Zoysa and Dr. Van Dort. It was signed in the verandah of Dr. Van Dort's house. I saw her sign the deed. After she signed she stood up and said in Sinhalese what was tantamount to "the previous deed was an injustice and this was justice".

(To Court : Q. Can you recall the Sinhalese words? A. I think this is what she said : E Kerana Ayuthu, Me Keruwa Yuthukama.)

Q. What was the manner in which she said that? A. To put 20 an interpretation on it, she had really achieved an act of justice by what she had done.

She signed the three copies. Then the witnesses signed and the granddaughter signed. After that we left the place.

(To Court : Before the deed was signed it was explained by Mr. Modder in Sinhalese.)

Q. I suppose the original request to get someone to explain it was in order that Mr. Modder may be satisfied that the instructions given to him were the real instructions intended to be conveyed by the old lady? A. No. It was more to acquaint the old lady of what she was doing ; 30 he had not met her before and he wanted that fact established. I suppose it would amount to confirming the instructions he had received for the preparation of the deed.

Before we left Mrs. Antony made us promise not to talk about the execution of the deed because she was going back there and I suppose she felt there was going to be repercussions once this was known. I saw the 1st defendant accepting the deed ; she signed it.

Mr. Modder had the deed and he got it registered.

Whilst I was acting in the testamentary case I had occasion to write certain letters to Proctor Rasanathan over the testamentary case. Mr. 40 Rasanathan was proctor for the administratrix.

(Shown letter marked 1 D4 dated 11th June, 1946) : This letter was received by me. I was acting all this time for the 1st defendant in the testamentary case. She was not getting any income at all either from the testamentary case or from any other property. As far as I am aware she never received any income, not even in respect of the property that was in her own name. I wrote to Mr. Rasanathan about that ; I got some account but no money came. As far as I am concerned as her proctor in the testamentary case she has not received any money.

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To Mr. Cyril Perera—No questions.

10 Cross-examination : I first met Mrs. Antony on the day the deed was signed. As far as I am aware Mr. Modder had not met her before that date. I knew by reputation that she was the widow of a rather rich man Mr. C. S. Antony. I gave Mr. Modder all the particulars of the property. He came and saw me in my office and asked for the particulars and I gave him. Dr. Van Dort had told him what he wanted done. He came to me only for the particulars of the property. Mr. Modder drafted the deed. I got the request from him about the 7th or 8th of April, that is to say, four or five days before the deed was actually signed. That was the first time he came to get particulars about the deed. The deed was signed on
20 the 12th. Probably I had suggested Mr. Modder's name in the course of conversation with Dr. Van Dort. I should presume Dr. Van Dort knew Mr. Modder. I cannot say whether I suggested his name. He was an apprentice under me when he started practice. It is possible that I suggested his name. This conversation about engaging him probably took place a day before Mr. Modder saw me. So far as I am aware the whole transaction of deciding to execute the deed, drafting it, executing it, all this took place within about a week. Mr. Modder was not a formal addition to this transaction. He was in full charge of that transaction because I refused to have anything to do with that as I was acting for the
30 1st defendant. I did not get him in ; Dr. Van Dort got him in. As far as I am aware he never went to see the person who gave the instructions. Dr. Van Dort gave the instructions. Mr. Modder came to me for particulars of the property. I had already made a search in the Land Registry and had all that available. Dr. Van Dort told him what had to be done and he came to me to get the particulars. First of all Dr. Van Dort 'phoned me and asked me to do the deed. I did not know where the deed was to be executed. Mr. Modder was asked to get the deed ready.

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Q. Am I right in saying that after the first giving of particulars to Mr. Modder you dropped out of the transaction until the 12th ? A. No.
40 I went with him to the Land Registry ; as having gone through the various folios there I was able to get him the particulars with regard to boundary, etc. which I did not know at that time.

I was helping in the preparation of the deed because it was coming to my client. Naturally I was in the transaction on behalf of Imelda. Up to that time I knew that a deed transferring the whole of the old lady's interest was to be executed by her in favour of the young girl. I knew that the old lady had a son.

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Q. Did you think it advisable to ask him what he thought about it?
A. That did not concern me at all.

Q. Did it occur to you as strange that an old lady should transfer all her property in a stranger's house without any of her relations or anybody whom she knew being present? A. As far as I was concerned I was aware that she had transferred various other properties to her son, so the old lady expressed her desire to transfer her half share of the intestate estate of her husband to her grand-daughter.

I did not know that the properties transferred to her son were under mortgage for Rs. 145,000. Nor did I know that the transfer was also¹⁰ subject to a *fidei commissum*.

Q. In spite of all your discoveries you had never found out that the transfer to Stock Antony was really only the balance of the heavily mortgaged property and that subject to a *fidei commissum* in favour of his children? A. I was not concerned with that.

Q. Did you discover it? A. I did not know anything about it being mortgaged.

(To Court : There was a deed of gift I think valued at two or three lakhs. I became aware of that by search. I did not then become aware that a mortgage was registered. I looked at the duplicate of the deed.²⁰ I don't think I looked at the encumbrance sheet. I searched the local index, then found the deed and looked at it.)

I am not substantially proctor in this case now. I did various things in this case. I did not work this case since I was giving evidence.

So far as I am aware C. S. Antony died in 1945. I knew that he was a wealthy man and that he had a son, a grown up married man, who was carrying on business. I did not personally know anything against him.

Q. Then suddenly an outsider to the family brings a grand-daughter to you and asks you to take charge of her affairs ; ultimately you are told that the old lady is going to transfer all her remaining property to her³⁰ grand-daughter ; did it not strike you it is unfair, it is only right to ask her son about it? A. No. I looked at it in regard to the fact that the son had got a transfer of the property that the old lady owned and he had no right in this matter.

Q. Even if he had no right, did you not think it right to ask his opinion about the old lady transferring all her property to her grand-daughter? A. I cannot express an opinion.

I first watched the interest of the girl in the testamentary proceedings. I did not file a proxy for one year later. I did not file a proxy immediately because there was no purpose in filing it then. I got the particulars I⁴⁰ wanted from the record. A proctor or a party in the case can inspect the record ; any person interested can do it. Having inspected the case I made a copy of the inventory. From my general knowledge of the law I assumed that she must be entitled to some property. The petition set out who the heirs were. I brought the inventory and showed it to my

client, more likely at Van Dort's house. She went through the property. She at once said that her grandfather had some other property and seemed to know all about it. I do not know whether she gave the numbers of the property on that occasion, but she told me about the properties in the Fort and Pettah. Whether the numbers were given to me at a later date I cannot say. Very likely she gave me the numbers when I showed the Inventory. I must have had the numbers before I searched the local index. I did search the Land Registry before I found out anything about this transfer. It is from the Land Registry that I found it out.

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10 I have to make an application on a form before I search the registers. In that form we have to give the name of the party to whom we are acting. We have to give the particulars of the property. In the case of local index I think it is a book that is produced with the registration references against each number of the property ; so in the application we say we are interested in searching this local index on behalf of our client. Then we get the local index and so find the registration reference from the number of the property.

Q. In the application there has to be a statement of what you want to do? A. That is for searching encumbrances, not for local index.

20 In the Land Registry there are different forms for various purposes. I must have used the form for the book called the local index, and from that I traced the registration number of the property, and further search is made from the registration book. For that purpose I had to search twice. First time you trace the registration reference. You got to make another application to search the book of encumbrances. It is not necessary to state the reason in the first form ; only for searching encumbrances you have to give the reason.

(Shown a certified copy of the application made by Mr. Mack on the 8th April, 1946, marked P20) : This has nothing to do with the local index ;
30 this is the second application. The registration reference is obtained from the local index. Until you look at that registration in the registration book you are not the much wiser. So that the first time I went there I had some particulars from the 1st defendant sufficient to identify the property. I went to the Registry and made an application to look up the local index to trace up the encumbrances. At this stage I cannot tell anybody what has happened to a property, about sale or purchase. I went to the Registry twice, first time to find out about registers and the second time with Mr. Modder. It was on the second occasion that I sent in P20. I think Mr. Modder went with me on that date. We called for
40 this form and filled it up on the spot. Then the books were brought to us after the application was passed.

Q. It was on this occasion that you were able to find out that Mrs. Antony had conveyed those properties to her son? A. I found that out on an earlier date. I had searched it earlier also. I made a similar application to search the registers on an earlier occasion as well. I did not go three times to the Registry. First I went to search the local index

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and the books that contained the encumbrances. I went with Mr. Modder on the second occasion to help him and tell him what boundaries and so forth he had to get. When I apply to search the registers I put the marks of the registers that I want to see.

Q. Why is it that when you went there on the 8th April and made this application (P20) you did not insert any numbers of the registers you wanted to see? A. In every application we must put the numbers that we want to search. Otherwise what are they going to give us? It must be in the original. This is a wrong copy. We have to put down here the division registers—they have A, B, C and then we have to put 10 the volume number and the page we want to search. P20 is a certified copy, I am sorry it is not correct. This cannot be a correct copy because this won't help me to get any books. I am sure I did not make this application on the 10th April; I did not go on the 10th. This is not in connection with the search that I made the first time.

(Mr. Hayley, in view of the witness' evidence, states that he will be making an application for summoning the Registrar-General to produce the original of P20. When the application is made I shall allow it.)

P20 is incorrect. We must put the volume and the folio so that the books can be produced. 20

On the 8th April Mr. Modder had been told to draft a deed. I cannot say whether he put in any application when he went with me; he may or may not have done it.

What I have put here "to report on title" is a formal entry in all these applications. They always want some reason given. They insist on it being put. The Registrar sends it back if the reason is not given.

I was merely concerned about getting the information from the registers. Modder was more concerned about drafting the deed. I put "to report on title" because that is the stock form which we use.

(Interval.)

(Sgd.) N. SINNETAMBY,
A. D. J

30

175/ZL

12-3-48.

(After lunch.)

P. D. A. MACK sworn. (Cross-examination—contd.).

If I want particulars of the deeds of any property I have first to go to the Registrar's Office and fill in a form, then if I do not know the volume or register in which the particulars appear, I have to ask for the index. I am not sure if there is a written application for the index also; I should think there is. I don't know whether there has to be a separate applica- 40 tion for the index, because the local index is one we seldom apply for. In this particular case I had to find particulars of the properties Imelda mentioned to me; she knew nothing about the registration numbers and I went to find out; when I got to the office I first filled in a form; I did not fill in all the particulars; I am not sure whether I filled in a separate

form for the index. On the first occasion I went to look for the other properties that belonged to Mr. Antony with the names, that is the Fort and Pettah properties which did not appear in the inventory ; only that. I think this was in March or April, may be towards the end of March. I generally go to the Registry about once a week. On this particular occasion when I went to the Registry I would have got the local index and searched the registers of as many properties as I had time for and found out what happened to them. I got the local index by applying for it on a written application which may be similar to the one Counsel has
 10 in hand, but I cannot remember ; however that application must be in a form. From the index I got the register and looked into it ; the register has a complete statement of what deeds are registered. I only made a short note of the particulars for myself. I found that those properties had been gifted by Mrs. Antony to her son. I first found out that they did not form part of the estate.

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I found out how Mrs. Antony got those properties. If the mortgages are registered, those particulars must be given there. The register is carried on from page to page, and on one page you get only the registration of the deed of gift ; this would be registered on the last page naturally, so
 20 that any other encumbrances, if they did exist, would appear on the earlier folios, because they are carried on from page to page. So that unless the mortgage is registered in the last folio I could not have seen it.

Q. Did you read the deed from Mrs. Antony to her son? **A.** Not at that stage ; I read it since. The registers give those particulars and there is no need to read the deeds.

Q. Were there many entries regarding these properties in that register? **A.** Each page of a register has about 3 to 5 entries. There were several particulars, each in a separate folio ; they have a remarks column in which they state "other particulars connected with this trans-
 30 action see volume folio". I did not interest myself about the other transactions.

I only wanted to see what had happened to these properties. I only found out that Mrs. Antony had transferred them to her son.

Q. Why did you avoid looking to find out whether there were any mortgages? **A.** It did not interest me ; I was not concerned. Because they were not included in the testamentary case I wanted to know what had happened to those properties. My client had no interest in them because they were owned by her grandmother and transferred by her to the son. She wanted to find out whether she had any interest. I
 40 was satisfied that since they were transferred by the mother to the son she had no interest. She would have had an interest only if it formed part of the estate. She did think it formed part of the estate ; she was not aware of the transfer to her grandmother or of the subsequent transfer.

Q. Did you find out whether it was a fair transaction or not? **A.** I only found out the fact and duly reported to my client.

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dant's
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Q. Before you advised your client or allowed Mr. Modder to undertake the transfer of all the other properties, would it not be important to know what the value of the properties transferred to Stock Antony was?
A. No, all I learnt from Dr. Van Dort was that the grandmother wanted to transfer her share of the estate to the grand-daughter.

Q. You had no information whatever to communicate to Dr. Van Dort as to whether Mr. Stock Antony had been taking any unfair advantage over his mother?
A. No, I reported the facts.

Q. And if the properties were subject to heavy mortgages, so that the mortgagee had to pay exactly Rs. 150,000, you will agree that that made a very material difference to the nature of the transaction?
A. I was not concerned with the mortgages. Naturally if a property is transferred subject to mortgage, the beneficiary interest would be very small.

Q. Mrs. Antony has told us that she was informed that Stock Antony had taken over 7 lakhs worth of property?
A. I am not aware of that.

Q. From what you tell us there is no justification for anybody to make such a statement to Mrs. Antony?
A. No, I did not state any values to anybody at all.

I can speak Sinhalese very well. When I got to the house on the 12th April Mrs. Antony had come there before me. What conversation they had been having with her I do not know. She spoke to me and wanted to execute the deed, but Mr. Modder for his own protection wanted some independent person to be consulted by her before she signed the deed. In the morning the deed was in the course of preparartion, not quite finished ; the typing was going on. I do not know whether the Protocol was with Mr. Modder at the time, or the draft of the deed. We were there about 20 minutes before we decided to send for Fr. Bourgeois. I had to leave the house as I had some other work to attend to. When I came back it must have been about 11 a.m. I do not know at all what had been told to Mrs. Antony in that house in the interval. I say Mrs. Antony was definite she wanted to execute the deed. I am very sorry to say it is wrong if Fr. Bourgeois states she did not know what she was doing. Possibly there would be some reason for her to take up that attitude if this transfer took place on the basis of what she had been told.

I went away again because stamps had to be bought and the deeds had to be completely typed ; the deeds were not ready when we came to the house the second time and because Fr. Bourgeois was coming we also came along with him. We went because Fr. Bourgeois had to be given particulars of what this transaction was. I think both Mr. Modder and I explained the position to Fr. Bourgeois. The deed was being typed, but I believe I had a protocol copy or a draft copy in my hands at the time. I do not think any copy was given to Fr. Bourgeois; he was told what was taking place. Either Mr. Modder or I explained to Fr. Bourgeois. He was not at all familiar with Ceylon deeds, being a Frenchman; he had no knowledge of these properties ; he speaks Sinhalese. It was Mr. Modder who wanted Fr. Bourgeois as an independent witness to this transaction,

He was not brought there to explain the deed to Mrs. Antony, he was brought there as the priest to whose church the lady used to go, to explain the transaction to her, so that she would know exactly what was happening and have an independent witness. She was fully aware of what she was doing. I suppose Mr. Modder wanted, as a Notary, some independent person to be an independent witness to this transaction and know what was being done. Mrs. Antony's knowledge of the matter would be just the same before the arrival of Fr. Bourgeois as it was after.

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Q. Did Fr. Bourgeois explain to her, "you are giving away these 10 properties without keeping any interest in them"? A. I don't think he explained in that way.

I do not know Whist Bungalow, where it is. No one spoke to me about Imelda getting married to young Zoysa; it was not discussed with me at all. I knew of course that Oliver Zoysa was taking an interest in this matter.

Q. Did he discuss the matter with you in your office at any time? A. He came to my office only on that day when the deed was signed, along with Modder and me, when he went to buy stamps. Modder and I went with him and got the stamps impressed—these were impressed 20 stamps—in the Stamp Office in the Secretariat; that was done after payment by Oliver Zoysa, just before we left for the bungalow. I do not know how Oliver Zoysa got the money. He drove us that day to the Fort and brought us back again to the bungalow. He seemed to be taking an interest in the matter. He did not join in the discussions with the old lady; he stood outside and watched. I know Dr. Van Dort's daughters. There were some persons in the drawing room, I did not go inside to see who they were.

Q. Did they let you know that Imelda intended to marry young Zoysa? A. I heard about it, I do not know from whom.

80 I met the young man after the deed was signed that day. I understood Mrs. Antony wanted to meet the young man and she had sent for him that day. When we got there for the signing of the deed he was there and I was introduced to him.

The first information about the transfer of these properties—not the testamentary properties but the other—by the old lady to her son, was found out by me some time in March. I met Mrs. Antony only on this one day. I am not able to corroborate the suggestion that she did not know about this transfer when I met her.

I did not know Fr. Bourgeois at all; I do not think Mr. Modder knew 40 him. The suggestion was made that he was Mrs. Antony's parish priest; the suggestion to get Fr. Bourgeois down may have come from the de Zoyas. There were suggestions of getting down Mrs. Antony's brothers, but she did not want anybody, and then Mr. Modder suggested getting Fr. Bourgeois.

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I went there about 9-30 in the morning with Modder and found Mrs. Antony, Dr. Van Dort, Mr. & Mrs. de Zoysa in the house. There were others in the house like Mrs. Van Dort, but they did not take any part. I should think the Zoysas were there before us.

Q. Who had asked you to come there that morning? A. I think Dr. Van Dort. He either saw me the night before or telephoned to me. By that time I had been informed about the deed.

Q. Did it not strike you that the whole transaction was a strange one? A. No, the girl was living with Mrs. Antony and Mrs. Antony visited her at Dr. Van Dort's bungalow. That is all Mr. Modder too knew 10 as far as I know.

Q. Did they tell you Imelda would be taken back to Whist Bungalow early in April? A. I believe she did go back to Whist Bungalow.

I did not know Fr. Bourgeois even by reputation. He was brought down by Oliver Zoysa ; it was arranged that he should be brought down. I was there when the arrangement was made at Dr. Van Dort's house. Oliver Zoysa brought Fr. Bourgeois and called for me on the way. I did not know the Father and he did not know me. As far as I was aware he did not know why he was being brought either, nothing was said in my presence. We first left the bungalow with Oliver Zoysa and went to my 20 office, when Oliver Zoysa came back with Fr. Bourgeois we got into the car.

In regard to the deed by which old Mr. Antony conveyed the property to his wife and she in turn to her son, I may be having a copy of the notes I made. I think a copy of the whole deed was obtained, later, after this case commenced. At the time the deed of gift to Imelda was written no one had a copy of the old lady's deed of transfer to the son ; it was not taken to Van Dort's house that morning on the 12th, nor was it read out by anyone at the time.

From the time I started this work till the end Mrs. Antony at no time told me why she wanted to give this property to her grand-daughter. 30

Q. Did she tell anybody in your presence? A. No, she had made up her mind to transfer the property.

(To Court : Q. Did she say why she had come to that decision? A. I think her intention was quite clear from her remark about the transfer to the son.)

Q. Apart from that observation was there anything which she said earlier which indicated why she was anxious to do this? A. No, sir.)

I wrote a letter to Mr. Stock Antony on the 16th May (Counsel reads the copy).

Q. Who instructed you to write that letter? A. When a client 40 entrusts a certain matter to us, in their own interest we have to consider what and what things ought to be done, and do them. It might be that in this case either Oliver Zoysa or Dr. Van Dort asked me to do this ; it is quite possible.

Q. What were the deeds you wanted Mr. Stock Antony to hand over when you stated "you were instructed by your client....."? A. There were some separate properties that belonged to her; not the properties under the Will. I did not mention them because she was not in a position to give me the details. Her grandfather had been collecting these rents and looking after the properties for her; she was not aware of any details; these deeds had nothing to do with the testamentary case. I cannot say that she gave me these particulars, or where the instructions came from, but I would not have known anything about these properties if instructions had not been given to me by someone.

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Rasanathan sent me a reply (Counsel reads the reply). What is stated there is not in order. I made a further request concerning the matter copies of which I have. It is not in order yet; she has not received a cent yet. I suppose he did not send any money because of this case. I have the account in my office.

After the execution of this deed Mrs. Antony said she did not want anybody to know anything about it. Mr. Modder heard it too. She stood up after the signing and said it. She was going back to her son's house and she did not want him to know it. Then I found out it was a deed to which the son might take exception.

Q. Up to this time had you discovered that all the deeds by Mrs. Antony to Mr. Stock Antony were with a *fidei commissum*? A. I did not know.

Q. Did you approve of the idea of keeping this a secret? A. It had nothing to do with me, it was her wish.

Q. If you had been advising her, would you approve of it? A. I cannot answer that. How can I say?

Q. You know that those properties were subject to administration? A. Yes.

Q. Did you find out whether they brought any income? A. I assumed they did.

Mr. Stock Antony had taken charge of everything, I understood, from the iron safe. As far as I knew he was collecting their rents. He was employing Mr. Rasanathan as proctor.

Q. How do you think they would get a half share of the rents if they did not tell anybody of the transfer? A. Mr. Antony would have continued to get the rents till she asserted her rights.

Q. Unless the deeds were merely being put aside till the marriage? A. I cannot carry the thought so far. It might be until the old lady died or found some other place to go to from the son.

Q. When you received this letter from Mr. Rasanathan, by the time you received it, you knew that Imelda's share was not $\frac{1}{4}$ but $\frac{3}{4}$? A. Yes, then I knew it was $\frac{3}{4}$.

Q. Did you write and tell him so? A. No.

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Q. Were you going to continue to represent Imelda? A. Yes, I am still.

I was going to claim her share when the estate was settled and the final accounts were filed.

Q. As far as you wished you wanted to do that as quickly as possible?

A. Yes. As soon as the final accounts were filed a claim would be made. Mr. Antony would know of the execution of the deeds before many months were out. She may have told me to keep it a secret because if her son came to know it she would not have been welcome in the house. In case she decided to take a house for herself I do not know how she was going to pay for it if she was not getting anything. I suppose she was going to rely on her grand-daughter for her maintenance. But I was not concerned with that.

(Mr. Hayley states he has no further questions to ask from this witness except with regard to the original of P20. It might be that no questions would be necessary when the original is made available. I shall give him an opportunity of questioning this witness with regard to that should the occasion arise.)

P. D. A.
Mack
Re-
Examination

Re-examination: On the 12th April when I first went to Dr. Van Dorts I said I found Mrs. Antony there. I spoke to her; I gathered from her why she had come there, she said she wanted to execute this deed of gift in favour of her grand-daughter, she told me in respect of what properties. She did not show any sort of reluctance. She did not appear to be excited. I don't know her usual state of mind, that was the first time I met her. She did not tell me why she wanted to execute this deed.

I also said I saw Mr. Zoysa and Imelda. I was asked by Counsel whether that deed was not one to which Mr. Stock Antony would take exception. I mean exception in the sense that he would not get any share of it.

Q. Did Mrs. Antony make any reference to her son in your presence that day? A. No, except one observation after signing the deed.

Q. Deed P8 given by Mrs. Antony to Stock Antony, had you any time read it? A. I have no recollection of having read it.

When I went to the Land Registry I was mainly concerned to find out what had happened to these other properties. I found first that the old gentleman had transferred them. My only concern was to find out whether these properties formed part of the estate or not.

(Sgd.) N. SINNETAMBY,
A. D. J.

J. A. V.
Modder
Examination

J. A. V. MODDER sworn. Proctor S. C.

40

I have been a proctor for 25 years. During the last war I was an officer in the Army. Somewhere in 1945 I resumed practice. I have known Mr. Mack since I was a child and also Dr. Van Dort.

Some time in 1946 Dr. Van Dort spoke to me in connection with the attesting of a deed—somewhere in April, 1946. He 'phoned me up and told me his wife's step-daughter was getting a gift of certain properties

from her grandmother and wanted to know whether I could undertake the attestation. I consented. He said if I contacted Mr. Mack he would give me full instructions. I saw Mr. Mack that morning on my way to work, in his office and he gave me full details. I asked him why he could not do it himself, he said he was acting as Miss Wirasekera's lawyer and he thought it better if there was another lawyer to advise Mrs. Antony. I asked him for the deeds, he said the deeds were not available. I would have to search at the Land Registry and get particulars of the properties. I went there I think on the 9th or 10th of April with Mr. Mack. Having gone there I got the necessary particulars of most of the properties. There were two or three others which were on the list which we could not locate; those particulars we did not take at any time; they were left out of the deed. As far as I recollect this was on the 9th or 10th April, but I cannot be sure. When we came back from the Land Registry Mr. Mack wanted me to start the work at once. I said I would like to meet Mrs. Antony; he said, proceed with the drafting, I will arrange for you to meet Mrs. Antony before the deed is signed. On the 12th morning Mr. Mack 'phoned me up and wanted me to come with him to meet Mrs. Antony to discuss this matter about the deeds and get final instructions. He called for me and we went to Dr. Van Dort's bungalow. That was about 9-30 or 10 a.m. When we went there, there was Dr. Van Dort and his wife, Mrs. Antony, Oliver Zoysa and Miss Wirasekera. I spoke to Mrs. Antony in Sinhalese. She seemed rather excited. The first thing she told me was "This has to be done today, I cannot risk putting it off any further". I said "I don't know what you mean by "this". She said shortly before that she had been asked to sign some papers purporting to be a tea contract, she signed them and later found out that she had actually executed a deed of gift in favour of her son, and she feared the same thing might happen again. So she wanted her half share of the husband's estate to be transferred to the grand-daughter before her son by subterfuge got it transferred in his name. Then I said it would take a little time to prepare the deed, I would get the papers ready, we could sign it tomorrow or the day after. She said no, it must be signed today. I said before you decided on such an irrevocable step should you not consult someone of your own, your brother or a relative. She said "I cannot consult anyone, I don't trust my own brothers". I said what about your own parish priest. Then she hesitated somewhat. I also felt it would be good to get the parish priest down, and I think he was sent for. Then Mr. Mack and I proceeded to the Fort and I had one draft of the deed made and ordered to get two other copies typed. I put the typing of the documents in hand at once. Then Mr. Zoysa called for us at Mr. Mack's office with Fr. Bourgeois, and we all went back to Dr. Van Dort. There Mrs. Antony told the same thing to the priest as she told me. I did not speak to the priest on the way except the usual polite talk. I did not speak to him in the bungalow. At the bungalow the priest started talking to Mrs. Antony. After he had spoken to her a little while he turned to us and asked us what is all this trouble. Mr. Mack explained to him what had happened, how her son had cheated her, and she was anxious to sign her other properties away to the grand-

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daughter, that she had instructed me to draw up the deeds and Fr. Bourgeois was brought to advise her about the step she was going to take. Then he asked her a few questions and told her "under the circumstances you are doing a very advisable thing".

Q. Was there any question of life-interest? A. Someone suggested that she should retain her life-interest. Then the first question she asked was whether it would involve any more stamp duty. I said yes. Then she said "I do not want the life-interest reserved, why should we waste money, my son would get me to sign off the life-interest also". She said, may be a short time afterwards, that she would be satisfied if the grand-daughter said by word of mouth that she will give the rents of these properties to her as long as she lived. She did not want anything written on the deed about it. After the signing of the deed was agreed on the 1st defendant was produced; the priest spoke to her and asked her to assure the old lady that she would give her the rents of the properties, and she did so. Then the priest went away, and we had to go and get the completed copies of the deed and the stamps. I asked Mr. Mack, or Mr. Zoysa what about the stamps. Mr. Zoysa went inside and came out a little while later and said "It is all right, we will get these documents and get some stamps". Then the priest, Mr. Zoysa, Mr. Mack and I went in the car. Mr. Mack and I got down at his office, Mr. Zoysa and the priest went, I believe to Mutwal; Mr. Zoysa came back a few minutes later, 15 or 20 minutes later. We had to wait a short time till the other two copies were typed. When they were ready we went to the Treasury, Mr. Mack, Mr. Zoysa and I, got the stamps embossed, Mr. Zoysa produced the money in cash. We paid the money, got the stamps embossed and went back to Dr. Van Dort's and there the deed was signed. As a matter of fact the deed had been explained about a dozen times that morning by Mr. Mack, Mr. Zoysa and I; even though it had been explained, I had to formally explain it again as a notary. After she signed the deed the 1st defendant signed it accepting the gift; and then the old lady stood up and in a dramatic fashion said in Sinhalese "Issara keruwe thakkadi kamai, dan keruwe yuthu kamai".

After the deed was signed on the 12th I handed it in for registration on the morning of the 15th. I left for Bandarawela by the night mail on the 15th. At that time my wife was residing in Bandarawela and I used to go up and down. I was at Bandarawela till Wednesday after Easter, the 22nd or 23rd. It could not be possible that Mr. Rasanathan or his clerk met me on the 16th. His clerk met me in May and wanted a copy of the deed, and he sat in my office till I got a copy made and gave him. That was the only occasion on which Mr. Rasanathan's clerk came to me. If he came previously I would not have been there. It is incorrect to say that the clerk met me on the 16th April.

I know this present action was filed last year. After it was filed there were suggestions that I should use my influence to settle the matter, by Mr. Ratnayake. No consideration was offered to me. He said he would use his good offices provided there was some consideration for him.

Cross-examination by Mr. Cyril Perera—Nil.

Cross-examined by Mr. Hayley.

Q. Did you hear that Dr. Van Dort got Rs. 3,000 to get Aenian engaged to Imelda? A. No.

I went upcountry on the 15th April and was there till the 24th. I have an office here. If anyone called for me in the office in the meantime he would have been told to wait till I came back.

I had not seen Mrs. Antony before the 12th April in connection with this matter at all. When the question of life-interest was raised she wanted to know what the difference would be in stamp duty. I said if it was an ordinary deed of gift it was Rs. 16 per 1,000 and if reserving life-interest, Rs. 35 a Rs. 1,000. Then she did not want to reserve the life-interest.

I was introduced to Mrs. Antony for the first time on the 12th April. I cannot say whether she knew or not how much she would have to pay for stamps; she may have had some idea, I cannot say whether she had or not. When I got there that morning Mrs. Antony was very excited. She was full of the idea that Stock Antony was doing her down. She was in the same frame of mind when the priest came. I would not say that the priest was an excitable person at all. He was speaking in Sinhalese in a rather peculiar fashion; a person very conversant with Sinhalese would know what he was saying but an Englishman knowing Sinhalese would have had a difficulty in following him. He talked English also in a foreign accent. The old lady was certainly excited.

Q. Did she tell you who told her that Stock Antony was swindling her? A. I did not ask her that. I have not asked her up to date. She had been there with these other people when I went, I do not know how long. I know Dr. Van Dort's daughters; I did not see them in the house at that time. I know Miss Wirasekera was inside most of the time with Mrs. Van Dort except when she was brought out to make that declaration. Mrs. Antony was seated, she used to stand up and gesticulate and sit down again.

There was no need for me to give the priest the deed to translate, I could do it myself. At that stage the question of translation did not arise. The priest was sent for to tell Mrs. Antony that she was signing away these properties. I suggested it only as a safeguard to myself to make sure that she knew what she was about. I suggested to get someone's advice as a precaution. The priest seemed to know something about the matter because he was referring to a previous conversation she had had with him. All he knew may have been derived from her.

Q. Did the priest know that the deed was to be executed that day? A. Yes.

Q. How did he know that? A. That was the first thing she told him; she said my son got me to sign away properties in his favour and I signed the documents thinking they related to something else, and so on.

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—continued.

I do not think I handed the deed over to the priest unless Mr. Mack did so. The priest I think saw the document which set out the properties that had been transferred to the son. I presume Mr. Mack must have brought it. I mean a list. There were no technicalities about it ; it was not a copy of the transfer, not the deeds ; only a list of the properties. I did not know that there were any mortgages. Fr. Bourgeois was given a document which purported to be a list of the properties that had been transferred. The priest seemed to know a lot about the family affairs.

Q. Did you tell Mrs. Antony “ when you leave this house you will have no properties at all ” ? **A.** I could not tell that because I would not know whether she had or not. I did not hear the priest saying that in my presence.

(Sgd.) N. SINNETAMBY,
A. D. J.

Further hearing 15-3-48.

175/ZL

15-3-48

Appearances as before.

J. A. V. MODDER sworn. Cross-examination—contd.

I am representing Mrs. Antony in this matter ; I am not a mere dummy. Up to the 12th April I had not spoken to Mrs. Antony. After Mr. Mack told me what was required I considered I had to represent Mrs. Antony's interests. In the deed 602 the value has been put down as Rs. 150,000 by me ; that is the figure Mr. Mack and Mrs. Antony gave me as the value of the property. We discussed with Mrs. Antony what value we should put down as the value of the lands which she wanted to gift, that was on the morning of the 12th April ; I am positive about it.

Q. Did you make a note of the various values of the various lands ?
A. I did not.

After our first interview with Mrs. Antony in Dr. Van Dort's house we both went to Mr. Mack's office. At that stage the deed had already been drafted by me. The draft was completed by me immediately after I saw Mr. Mack on the first occasion, before I had seen my client.

(To Court : **Q.** How far from Mr. Mack's office is your office ? **A.** My office is in Dam Street ; I have no office in the Fort.)

Mr. Mack wanted me to proceed with the work pending meeting Mrs. Antony, in order to save time, and I agreed. I got the draft typed in Mr. Mack's office ; I prepared a draft in my own handwriting and gave it to Mr. Mack to have it typed.

Q. Where did you originally draft it ? **A.** In my office in Dam Street. At that time I knew who were the donee and the donor, the descriptions of the properties. I don't think very much more is needed by a notary to draw up a deed of this type. So I drafted it in full,

Q. When did you take it down to Mr. Mack's office? A. It might have been a day or two before the 12th.

Q. Why did you leave it there? A. I really wanted him to show it to Mrs. Antony and get her to approve of it.

Q. Why didn't you show it to Mrs. Antony yourself? A. Mr. Mack was the man who introduced me to this job and I did not want to do anything without telling him about it. I had not been introduced to Mrs. Antony.

Q. Was it really that you thought of showing it to Oliver Zoysa first? A. I had nothing to do with Oliver Zoysa.

He told me that Mrs. Antony wanted her immovable interests in the testamentary case transferred to her grand-daughter.

Q. Did you, when you went to the Registry with Mr. Mack, go with the intention of finding out particulars of all lands in the estate? A. I did.

Q. Are you aware now that in fact Deed No. 602 does not convey anything like all the lands in the estate? A. I was aware of it before the deed was signed. I said we could not get the descriptions of all the properties. As far as I am aware I think we could not get the descriptions of three or four, at the most. There were ten in all; we got the descriptions of six or seven. I could not say whether the ones left out were large or small. I did mention it to Mrs. Antony, that there was an omission, but in her great hurry to get this done I think she supposed that half a loaf was better than no bread.

(Shown P1, Inventory P2). The first property in P2 is Wolfendahl Street, 5½ acres—No. 2 in the deed. The property called Hendala Farm, 50 acres, value Rs. 50,000, is not in the deed. The third property in the schedule is No. 1 in the deed. Premises bearing assessment Nos. 96 to 96F—No. 5 in the schedule—might be the "Nook". Premises called Hill Lane is No. 3 in the schedule, and Tea Stores is No. 4 in the schedule. There are also descriptions of the Modera properties, Nos. 6, 7 and 9.

(At this stage Mr. Herat hands over the original of the deed 602 which Mr. Hayley marks P1A.)

Nos. 318, 319 and 320, Modera Street, are No. 7 in the deed. Hendala Farm, 11 acres, is not in the deed. 510 and 511, Alutmawatte Road, are not in the deed, and also the Diyatalawa properties.

Mr. Mack and I could not find out the descriptions and we mentioned that fact to Mrs. Antony. I think I went to the Land Registry on the 10th. I signed the application on the day I went with Mr. Mack. I went once to the Land Registry. Mr. Mack had been there already before I went with him, I cannot say how long before. According to my recollection I went once with Mr. Mack and only once. I think I did not go on the 8th April but on the 10th; but I cannot swear to it. On the day I did go I found particulars of a lot of these properties. There would have

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been no difficulty whatever of getting the Alutmawatte properties if we had the deeds. I started drafting the deeds the same day in such a way as to be able to add anything later. I was told there was a hurry.

I agree that the only person interested in getting this done was the client. I had never seen the client before the 12th April. When Mr. Mack gave me these instructions he wanted me to proceed with the drafting even before I met Mrs. Antony as there was some urgency in the matter.

Q. Have you heard now that the urgency was due to something which happened on the 10th afternoon at Whist Bungalow? A. Yes. I heard that on the 12th. There was the fact that a deed of gift had been 10 executed by subterfuge somewhere in February. That must have contributed to the urgency. As far as I could understand the urgency was that Mrs. Antony's son might get these properties also transferred to himself by subterfuge, and by waiting to get a complete list you might lose the chance of getting even some of the properties. There may have been other factors which contributed to the urgency which I do not know.

Q. Do you agree that if your client instructed you to have the whole of her estate transferred it is a very serious matter to leave out about one-third? A. If I left it out on my own initiative it would be.

Q. As far as she was concerned she did not see you till the morning 20 of the 12th? A. That is so.

Q. Had you a list with you of all the properties that had been left out? A. I had the inventory to tick off. The inventory was with Mr. Mack in his file. Mr. Mack had his file there and I presume he had the inventory in it.

Q. Was Mrs. Antony quite content to leave out Rs. 100,000 worth of property? A. She wanted as many properties as possible conveyed at once to get them out of the reach of her son.

It is absolutely false to say that Mr. Zoysa chose the properties to be transferred. As a matter of fact I told Mrs. Antony that we could transfer 80 the others later; she asked me whether that could be done and I said yes.

The Rs. 150,000 was the value Mr. Mack and Mrs. Antony gave me on the morning of the 12th. She must have known the values to have given me this figure.

Q. Did you have the inventory with you? A. We had it with us.

Q. Could you have taken it out and checked up? A. I cannot recall. I know I would not have put that value on my own if I did not get it from Mrs. Antony and Mr. Mack.

I do not know Mr. Stock Antony up to date; I never met him. In 40 regard to the reference to Mr. Danton Ratnayake, I did not try to get in touch with Mr. Stock Antony at all for any purpose. I applied to rent out an office which Mr. Antony had in Baillie Street; there was a property advertised to let, No. 22, Baillie Street, I think it was, and I applied in

the ordinary course, using the post box number. I believe the premises was advertised. I know now that that was one of these properties transferred to him by his mother.

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dant's
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—continued.

(Shown a letter). I admit having written this letter. (Mr. Hayley marks it P21 of 27-3-47). I knew old Mr. Antony was dead but I did not know who constituted the firm today. I never realised the fact that the one son was running the business. I got this information from the Ceylon Insurance Co. as they were leaving this place. I now see my application was not in response to an advertisement. I made a mistake. I got no
10 reply from Mr. Antony as far as I remember. I did not go and see him. Mr. Ratnayake mentioned the matter to me. He said "you have written to C. S. Antony & Co. for a portion of their office, I am in charge of the whole thing, I can fix up a portion for you". This is an expensive quarter today. If I took a portion I would have taken a portion that I could afford.

In my profession I had somewhat bad luck. I went into the Insolvency Court. I do not remember who was the petitioning creditor; there must have been a number of creditors. As a matter of fact shortly after my insolvency case I did well and was able to pay off those of the creditors
20 whom I felt bound to pay. Then I went on war service, and when I came back I had to start all over again from the beginning; I naturally found it difficult. I owe people money still. I have borrowed money on cheques. As far as I can remember I do not think any cheque has been dishonoured. Once I had to stop payment of a cheque somewhere last year, for Rs. 500, because the man from whom I borrowed deducted interest for 6 months but waited only one month. He gave me the money deducting six months' interest and instead of waiting for the six months he presented the cheque at the bank within a month. Interest was deducted for six months from the date of the cheque. This was a Chettiar.

30 Q. Even a Chetty would not accept a cheque from you without a second signature on it? A. They believe in having as many strings to their bow as possible.

From the document shown to me I know that Messrs. Mack & Son were the petitioning creditors in my insolvency case.

The draft of the deed of transfer was all typed in Mr. Mack's office in Negris Building.

Q. Why did you not type it in your own office if you were really representing Mrs. Antony as her proctor? A. I would have done that if not for the extreme urgency of the matter. From Mr. Mack's office I
40 went to the stamp office; the stamp office was much nearer to his office than mine. And possibly the typing in his office was better than mine.

Q. So far as the particulars which you had gathered went, did you search for the encumbrances? A. Yes, you cannot do a search without finding out what the encumbrances are; I made a search on the same occasion.

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1st Defen-
dant's
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—continued.

Q. When you execute a deed are you not required to note the numbers of the older deeds? **A.** That might be done, but there is nothing in the Ordinance to that effect. One cannot do it if one has not got those deeds.

(Sgd.) N. SINNETAMBY,
A. D. J.

Adjourned for lunch.

D. C. 175/ZL

15th March, 1948.

(After interval.)

VERNON MODDER sworn. (Recalled) cross-examination—contd. 10

With regard to the date of the cheque I believe it was April last year—may have been April or May I am not sure.

(Shown a document). It was in April last year.

At that time I had an office in Dam Street. I still have that office. About the same time last year and during last year I was borrowing money from other people. I cannot say anybody else from whom I was borrowing at that time. I have been borrowing, repaying, these loans are usually short term loans ; if I borrowed at that time I must have repaid them.

Q. Did you borrow Rs. 750 from a man called S. K. Sha Bai, an Afghan, during last year? **A.** I think you got the name wrong. I 20 borrowed from a Bhai, not Rs. 750. I borrowed Rs. 500. I repaid by instalments. I have not paid them up fully. At about this time I wanted to change my office from Dam Street to Baillie Street because my clients were mostly in the Fort. I was certain of paying Mr. Antony the rent of the office if I got it. I was not so much in debt. I had actually to borrow Rs. 400 to Rs. 500. I do not know whether that is so much in debt.

Q. One does not borrow ordinarily from Afghans? **A.** I would rather borrow from a professional money-lender than go to friends and other people.

I was able to borrow from friends but I did not want to. 30

The fees for the deed came to me through Mr. Mack. I sent the bill to Mrs. Antony, about a month later I got a cheque for the amount. I am quite sure that I sent the bill to Mrs. Antony. I kept copies of bills I sent out. I probably have a copy of the bill I sent to Mrs. Antony. I was paid Rs. 1,500 as fees. Mr. Mack sent me the cheque. It was not his cheque ; it was someone else's cheque, not Mrs. Antony's cheque.

Q. You did understand that this transfer by Mrs. Antony to her grand-daughter was a gift? **A.** Naturally. It is described as a deed of gift.

Q. You understood it at that time? **A.** Yes. 40

(Witness is referred to the attestation in the deed.)

Q. Why do you say there that no consideration passed in your presence? **A.** Because every notary has to state in every deed he attests whether or not any consideration passed in his presence.

I have seen that put in a deed of gift before. I have put that in every deed of gift I attested. I have attested many deeds. The consideration stated in the deed was love and affection. The Notaries Ordinance says one of the constituent portions of the attestation is whether or not any consideration passed; whether you are signing a deed of gift or a mortgage or a transfer you still got to say it.

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dant's
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Examination
—continued.

Q. I am speaking from memory—the Notaries Ordinance only states, you may state whether consideration passed or not? **A.** No, you must state.

10 (Shown P8). This is a deed of gift attested by Mr. Rasanathan. He does not state here whether any consideration passed. He says “for love and affection”. Mr. Rasanathan is not complying with the provisions of the Notaries Ordinance in that case, I am afraid.

I have done many deeds. It seems absurd on the face of it. We got to deal with certain people called the Registrars of Lands and they have peculiar notions of what should be stated in the attestation and what should not and we are really bound by the interpretation of the Ordinance. I have seen this kind of attestation in a deed of gift. A man who has to handle deeds every day like a notary knows it.

20 **Q.** I suggest that this attestation indicates you did not really know whether it was a sale or a gift? **A.** The suggestion is laughable.

(Witness is referred to the Notaries Ordinance.)

Q. Show me where you are required to state that no consideration passed? **A.** Section 30 (20) (e).

Q. If the deed is for love and affection, how can you state that any money passed in your presence? **A.** Then you state that no money passed. That is what I have stated in the deed.

Q. You do not think it is usual? **A.** It is positive, it is usual.

30 **Q.** You did not put it there because you did not know? **A.** Certainly not.

In November, 1946, my family was in Bandarawela and I was living in Kensington Gardens, Bambalapitiya. I had a telephone there.

Q. On the morning of the 12th Mr. Mack telephoned you to meet Mrs. Antony and he called at your bungalow and picked you up there and then you went on to Dr. Van Dorts and a short while later you left with Mr. Mack and Mr. Oliver Zoysa? **A.** I do not know what you mean by “a short while”, I should say after about 35 or 40 minutes.

35 or 40 minutes later I left with Mr. Mack in Mr. Oliver Zoysa's car. He dropped both of us in Mr. Mack's office and he went along saying that 40 he was going to fetch the priest. He came back and picked us up again. About 20 or 25 minutes passed between his dropping us at Mr. Mack's office and picking us up again.

I told earlier that Mrs. Antony said something about a tea contract. She said that her son had put some documents in front of her and asked

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dant's
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Cross-
Examination
—continued.

her to sign them saying that they were some papers in connection with the tea contract which required her signature. This was a short time prior to the 12th of April, prior to the time she had come down to Van Dorts. It was a short time before, may be a month or six weeks or even less than that—certainly not a day prior. I did not ask her what this tea contract was or why she should sign it. She mentioned that her son had said as Mr. Antony had left no will certain documents in connection with the tea business had to be signed by her. It was not a very relevant point. The relevant point was that she had been cheated.

Q. She had no objection to sign the necessary documents for the tea 10 business? A. I suppose she did; I did not ask her. I was advising her with regard to this one specific transaction I had not been appointed her general lawyer.

Q. You could not advise her very well until you knew her position generally? A. I had quite sufficient information for the job I had in hand and I was not concerned with anything else.

Q. When the priest came you knew enough to tell him all about her affairs? A. I told him only about the affairs we were particularly concerned on that particular day. If I went to discuss all her affairs one day would not be sufficient. 20

Q. Had he to explain to her the parcel and all that that had to be transferred? A. My main object in getting the priest there was to make certain that Mrs. Antony was not doing something in a fit of pique with her son and to make sure that she fully understood what she was doing. As a notary I felt that was my duty.

Q. Not that he should know what the parcel was being transferred? A. I wanted some independent party who could give her advice. She had no confidence in her brothers or relatives; I thought the next best thing would be the parish priest.

Q. What would he advise if he did not know what was going to be 30 transferred? A. I never wanted him to give any advice. I wanted to know whether Mrs. Antony knew or not what she was doing. I did not care what advice the priest gave. If I knew that Mrs. Antony felt that she should sign the deed irrespective of what the priest said I would have done it.

J. A. V.
Modder
Re-
Examination

Re-examination: I was asked about certain properties which were left out in P1. I was questioned about the Hendala Farm. I did not know that the farm had been sold. All I know about the farm is that it is a water-logged bog. I mentioned to Mrs. Antony that certain properties were left out. I told her that they had to be left out because she did 40 not know their description. She said if you cannot incorporate them in the deed, leave them out.

I said about some properties that were to be given to St. Andrew's Church. Mrs. Antony said there were two properties in Modera Street just in front or adjoining St. Andrew's Church and it was the intention of

Mr. Antony and herself to transfer those two properties to the Church. She wanted those two properties left out. She told me that on the morning of the 12th, on the first day I met her.

When I came there on the 12th morning I found Mrs. Antony rather excited. She was excited about the deed she had to execute in a tremendous hurry. She wanted the deed done at once; she did not want any postponement. She felt that if she went back to Whist Bungalow anything might happen.

(Sgd.) N. SINNETAMBY,
A. D. J.

10

Mr. Herat moves to close his case reading in evidence 1 D1 to 1 D5.

Mr. Hayley at this stage states that he wishes to cross-examine Mr. Mack on the application to search the registers and that he has with him one of Mr. Mack's application but the Registrar has stated that he cannot produce another document without the authority of the Registrar-General.

At this stage it is indicated to me that the case cannot proceed today as the 2nd defendant is ill and cannot attend Court today. Mr. Cyril Perera for him applies for a date.

When the witness Mr. Mack was in the witness-box and the accuracy of a certified copy of P 20 was in question, I indicated to Mr. Hayley that I will permit him to recall Mr. Mack and if necessary put the original to him. I shall in these circumstances, permit him to do so before Mr. Herat closes his case. As the case has to go down I postpone further hearing for 26th May, 1948, when Mr. Mack can be recalled and the question with regard to P20 and his application for search be put to him.

Further hearing for 26th and 28th May and 15th and 17th June, 1948.

Mr. Herat states that he will see that Mr. Mack is in attendance in Court on the next date.

(Sgd.) N. SINNETAMBY,
A. D. J.

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D. C. 175/ZL

26th May, 1948.

Appearances as on the last date.

P. D. A. MACK sworn. (Recalled.)

Cross-examined by Mr. Hayley, K.C.

(The Registrar-General who has been summoned hands over to Mr.

Hayley the original of P20. Mr. Hayley marks it P20A.)

Shown P20 and P20A.

Q. Can you tell me what mistakes there are—you said P20 was wrong in certain particulars? A. This is a correct copy. Except for the certification they are identical.

Q. Was that the only search you made in regard to this matter?

A. For the purpose of this matter I applied for others also.

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dant's
Evidence
J. A. V.
Modder
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Examination
—continued.

P. D. A.
Mack
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dant's
Evidence
P. D. A.
Mack
Cross-
Examination
—continued,

(Shown a certified copy of the register of applications for searches, from 26th March, 1946, to 12th April, 1946, marked P22.) This is marked register of applications for searches. I do not know whether this holds every application that is made there. My name is down against one application on the 9th, No. 2247. There is one on the 8th also.

(Shown a certified copy of the application on the 9th marked P23.) That application has nothing to do with this matter. I have made another application on the same date application No. 2286. (Shown a certified copy of that application marked P24). That had nothing to do with these lands either. This does not say in what connection it is. It does not give the lands either. We are always made to give the particulars of the land, name of the client, and for what purpose we want the search. There is nothing here. This is a certified copy of the application I made. This refers to lands in the E Division in Colombo. I do not think it relates to the lands which form the subject matter of this case. My name does not seem to appear anywhere else in P22. In the case of applications for encumbrances where we have the registration reference we search particulars of those reference through the local index but I do not know whether they are entered in P22, because it is marked "application for searches".

To Mr. Cyril Perera :

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Colombo Town is Volume A. Volume E I cannot say to what area it refers.

To Mr. Herat :

I can recall that I made more than one application in connection with the property of Mr. C. S. Antony. Those applications were in order to find out registration.

To Court : When we definitely know the registration number then we apply for a search but in order to obtain particulars of registration we apply to search the local indices. Those do not appear to be recorded in P22.

30

(Sgd.) N. SINNETAMBY,
A. D. J.

Mr. Herat closes his case reading in evidence 1 D1 to 1 D5.

No. 8

2nd Defendant's Evidence

No. 8
2nd Defen-
dant's
Evidence
O. G. de
Zoysa
Examination

Mr. Cyril Perera calls :

OLIVER G. DE ZOYSA sworn, 49 years, Excise Inspector, Colombo City.

I did not at any time in the years 1945 and 1946 constitute myself a friend and adviser of the plaintiff. I had no occasion in 1945 to advise her. The late Chevalier C. S. Antony died in 1943. After his death the

40

plaintiff continued to live in Whist Bungalow. I cannot remember in what month in 1943 Chevalier Antony died. As far as I can remember I went to "Whist Bungalow" on three occasions in 1943, once before he died, once for the funeral and after that for the alms-giving. In 1944 I may have gone once or twice. During that time I was neither the friend nor the adviser of the plaintiff, no opportunity to be a friend or adviser. Before December, 1945, I visited "Whist Bungalow" about three times. In December I visited once. The plaintiff did not seek my advice in 1945 on any matter; nor did I have occasion to act as her friend in 1945. 10 During the whole of 1945 I remember I met the plaintiff only once, and that was in December.

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2nd Defen-
dant's
Evidence
O. G. de
Zoysa
Examination
—continued.

The deed in question was executed on the 12th April, 1946. Up to the 12th April in 1946 I had occasion to go to Whist Bungalow first of all in connection with the plaintiff's illness. I went there on a telephone message that I received from her son Simon Stock Antony asking me to come there. During her illness I would have seen her about five or six times. There was no question of advising her. There was no matter in which I could have advised her. She was ill.

Q. In or about November, 1945, did you through your brother John 20 Zoysa suggest to the plaintiff a marriage between your son and the first defendant? A. I made no proposal for a marriage for my son with the first defendant.

Q. It is suggested that you made this suggestion through John Zoysa? A. No.

Q. Did you make this suggestion through anybody else? A. No.

Q. Did you make a suggestion at any time? A. No.

On the contrary the proposal was sent through my brother by Mrs. Antony. The proposal came from Mrs. Antony somewhere about August or September, 1945. I was agreeable to an engagement but not to a 30 marriage at that time, because my son was then a student. Those talks went on till December. In that connection I met the plaintiff for the first time in the latter part of December, 1945.

Q. It is suggested that Mrs. Antony rejected the proposal made by you—is there any truth in it? A. I made no proposal.

Q. She had therefore no opportunity to reject it? A. Yes.

Q. It is suggested that you continued to visit Whist Bungalow with the idea of putting through this proposal—is there any truth in it? A. No. I went there not with that idea.

Q. It is suggested that you went to Whist Bungalow with an idea 40 of gaining an ascendancy over the mind of the first defendant? A. No.

Q. Did you in fact meet the first defendant in 1945? A. Yes, I think so.

At no time did I directly talk to her about a marriage. It is not customary in this country for a prospective father-in-law to talk about a marriage to the girl.

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2nd Defen-
dant's
Evidence
O. G. de
Zoysa
Examination
—continued.

Q. It is suggested further that you succeeded in making the first defendant amenable to your wishes—you say you never spoke to the first defendant about a marriage to your son? A. Yes.

Q. It is suggested also that you instigated her to be a boarder at St. Bridget's Convent—is there any truth in that? A. I never did it.

Q. Did you at any time suggest to her or tell her that she should be a boarder at St. Bridget's Convent. A. No.

Q. Did you suggest to her to leave the house at any time? A. No.

Q. You were present when the plaintiff signed the deed No. 602 in question in this case? A. Yes.

10

Q. Is it true that the plaintiff refused to sign the deed without consulting her brothers or lawyers? A. That is absolutely false.

Q. Did you induce the plaintiff or prevail upon her to sign this document P1? A. No.

The plaintiff was ill in January, 1946. During that illness the first defendant was at Whist Bungalow. I know that she left Whist Bungalow after that and went to Dr. Van Dort's. She was there from some day in February till about the 1st or 2nd April. On the 1st or 2nd April she went back to Whist Bungalow. I saw her much when she was at Dr. Van Dort's bungalow. I saw her several times. She remained so long at Dr. 20 Van Dort's bungalow because she found it intolerable living at Whist Bungalow because of her uncle. I did not take her back in April. I believe Mrs. Antony came and removed her. After that I saw her on the 10th April. On that day I received a telephone message from Dr. Van Dort asking me to go there saying that the first defendant wanted to see me urgently. I did go there. When I went there I met the first defendant in the garden. She was walking up and down. I stopped my car and spoke to her. She said that her uncle and proctor Rasanathan had produced some papers and wanted her grandmother to sign on those papers, that she refused, that the uncle tried to force her to do so but eventually 30 the papers were not signed and after that Father Bourgeois came into the house and left after some time, that he spoke to her grandmother and also to her uncle and he had gone. She actually said that her uncle after that also picked up a row and that he was in a rage, and I believe she said he had eventually torn up all those papers he had tried to get his mother to sign. I did not talk to the plaintiff on that day. When I was told this there was nothing that I could have done. I told the first defendant not to be afraid nothing will happen to her and I went off. The next day I got another telephone message from Dr. Van Dort telling me that he and his wife had tried to contact the first defendant on the telephone and that 40 they were not able to do so but were abused by Mr. Stock Antony and not allowed to talk to the first defendant. He asked me to go and see what was the matter with the first defendant. I promised to do so and went in the evening. I saw her on that day. When I went up to the gate the watcher closed the gate against me. I tried to drive in my car. I asked the watcher to open the gate. He said the master had ordered

him not to allow me to come inside. Then I put the car back on the side of the road and pushed open the gate and went inside. There has always been a watcher at Whist Bungalow gate even in the days of Chevalier Antony. When I went near the bungalow I found all the doors and windows closed except one window which was slightly open. I went near that and saw the plaintiff's son that is Simon Stock seated at his table there. I asked him to open the door. Then he told me that he was not going to open and asked me to go away. I said no, I wanted to come and speak to his mother. He said he was not going to allow me but after
 10 some time he went and opened the door. I went inside and had a talk with him and then I sent for his mother that is the plaintiff. After some time plaintiff came into the hall adjoining his office room and beckoned to me. The hall is a big hall. It is one of the big halls. There are several halls in that house. When I went up I asked her what is all this trouble. Then she said in Sinhalese that her son was mad. She said she wanted to remove the first defendant to Dr. Van Dort's bungalow and asked me whether I could take her away then. I said that I would not like to do that. Then I told her that I had difficulty in entering the premises that evening. She then told me to send a car to the Church early morning
 20 that she would go for Mass with the first defendant and go from there to Dr. Van Dort's. The Church was St. James' Church, Mutwal. That is the church to which she belongs and that is where Father Bourgeois was and he was the parish priest. This church is about 250 yards from Whist Bungalow gate along the main road. The plaintiff was to go to St. James' Church walking. She told me that she was going to bring the first defendant. The purpose of her going there was to take the first defendant. Then she told me to tell the doctor to ask the proctors to have the deed ready the next morning. All this conversation took place on the 11th. The son did not hear any part of that conversation. At this time there
 30 were two cars at Whist Bungalow. I did not suggest to the plaintiff to come in one of those cars. She said that she wanted to go without the knowledge of the son. That is why she adopted this ruse of walking to church. The 12th was a Friday. The plaintiff did not tell me the time she was going to church but I knew the time was about 6-30 as that was the time Mass was said in that church on a week day. I conveyed the whole of this conversation to Dr. Van Dort. The next morning I sent a car. I did not send my car. The car that I sent I directed it to be taken in front of the church. The conversation with the plaintiff took place at about 6 or 6-30 in the evening. I saw the plaintiff next the following
 40 morning near my office in Pettah. On the way to Dr. Van Dort's they stopped the car near the Excise Station, Reclamation Road, Pettah. I do not know the number of my office. They had to take that road to go to Bambalapitiya. That was the shortest route to Bambalapitiya. From St. James' Church they will take Mutwal Street and the faster road would be by St. Antony's Church. They stopped the car at the Excise Station and a message was sent to me by the guard I had sent in the car, asking me to come down. The Excise Station was an upstairs building. I came down. The plaintiff asked me to come to Dr. Van Dort's to follow her.

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I promised to do so and I went back. The plaintiff was with the first defendant at that time in the car. The plaintiff went ahead to Dr. Van Dort's house in Bambalapitiya. Then I followed. I went at about 8 or 8-30 a.m. When I went there, I found the plaintiff and first defendant and Dr. & Mrs. Van Dort. They were taking tea or just after tea, they were having tea I believe. A little while later Mr. Mack and Mr. Modder came there. I believe they came there on a message given by Dr. Van Dort. I think it was Mr. Modder who spoke to the old lady and asked her whether she wanted the deed of gift in favour of the first defendant prepared, and gave details of the property involved. The plaintiff said 10 "yes" she wanted to do that meaning that she wanted to execute a deed in favour of the first defendant. Then I believe Mr. Modder asked her what about your life-interest. She said "No, I do not want the life-interest because if I had that my son will take that money also". Then he asked her whether there was anybody of hers whom she would like to be present there and explain to her the contents of the deed and things like that. I think he asked her whether she had any brothers whom she would like to consult. She said there was nothing to consult she had made up her mind definitely and that she did not want anyone to advise her or talk to her about this deed. The brothers were not specially mentioned. 20 I believe he asked whether she had any brothers. She in fact has three brothers. She did not indicate that she wanted to consult any of her brothers. She definitely refused to have anybody coming there. Then I think it was Mr. Modder who suggested whether she would like the parish priest to come there and speak to her. She agreed. I was asked whether I could go and bring him. I said I would do so. The parish priest was Father Bourgeois. He had been in St. James' Church before that day for about four or five years. I left Dr. Van Dort's bungalow with Mr. Modder and Mr. Mack. I dropped them at Mr. Mack's office and I went to St. James' Church. I found Father Bourgeois at the confession room. At the inter-30 val I spoke to him and told him that Mrs. Antony wanted to see him. And he came along with me. He came out of the Church and got into my car. Coming out of that church if one went to Whist Bungalow one had to go in a particular direction but if one had to go to Bambalapitiya one had to go in the opposite direction.

Q. Did he know that he was not going to Whist Bungalow? A. Yes, because Mrs. Antony had told him in the morning.

(To Court: Q. That is what you think? A. I was told that she had been to church in the morning and spoken to Father Bourgeois.

Q. And told him to come? A. No. 40

Q. That does not explain why he should know that they were in another place and not in the Whist Bungalow—you inferred that he would have known they were not in Whist Bungalow because you turned in the opposite direction—is that what you are suggesting? A. When we got out of the church and went in the car we did not go to Whist Bungalow. We went in the opposite direction. He did not make any enquiry. He did not ask why I was going here,

As a matter of fact I heard from the first defendant that Mrs. Antony had gone and told Father Bourgeois that she was taking the first defendant to Dr. Van Dort's place.)

She had not told him anything about the deed but told him that she was taking the first defendant to leave her at Dr. Van Dort's bungalow.

(To Court : I first came to know that a deed was going to be executed on that day on the 11th when Mrs. Antony told me to ask Dr. Van Dort to have the deeds ready. Before the 11th nobody knew that a deed was going to be signed.)

10 I took Father Bourgeois to Bambalapitiya after picking up Mr. Mack and Mr. Modder on the way. Father Bourgeois spoke to the plaintiff when he went there. The plaintiff knew before why Father Bourgeois had been brought there. Mrs. Antony spoke to the Father and told him what she was going to do and also mentioned to him that the reason for her doing this was that her son had cheated her and taken away most valuable property and that she was afraid that what balance she had also would be taken and that she was going to sign this deed to make provision for the first defendant. At that time there was a draft deed of the properties to be transferred. Father Bourgeois questioned the proctors. Then one
20 of them I believe gave an extract. He asked is this true, that the son had got some property by a deed from the plaintiff. Then one of them read out an extract from a deed that had been executed somewhere in February.

Q. Did the proctor Mr. Modder say who attested the deed? A. Yes.

Q. Did Mr. Modder have a draft deed in favour of the first defendant? A. He had.

That draft deed was shown to Father Bourgeois. Father Bourgeois looked through those properties.

30 Q. When those properties were mentioned did the plaintiff keep on questioning "is this property mine, or not mine" or some words to that effect? A. No.

Q. What did Father Bourgeois say? A. Father Bourgeois said if the previous deed was as you say taken by unfair means and as you say you want to make provision for Imelda before these properties are also taken away by your son, from what I can see you are doing the correct thing.

Q. Did you or the Van Dort's at any time during that morning persuade her to execute this deed? A. There was no occasion for per-
40 suasion.

Q. Or cajole her? A. No.

Q. Why do you say there was no occasion? A. Because she was the one who was determined to gift these properties to the first defendant.

I say there was neither pressure nor surprise. I say that she was fully aware of what she was doing.

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Q. Was there any sort of influence brought on her by anybody either yourself or the Van Dorts or the proctors or the priest? A. No.

Q. Did anybody have occasion to tell her you had transferred the following properties to your son? A. No. In the presence of Father Bourgeois the list of properties that were transferred in the son's name by the plaintiff was read by Mr. Modder from a draft deed.

Q. Did anybody tell her at that time "As you have transferred these properties to your son, transfer certain properties to the first defendant"? A. No.

Q. Did anybody tell her that the properties transferred to the son¹⁰ were valuable properties? A. There was nobody to say so and there was no occasion to say so.

Q. Did you yourself say or do anything at any stage to persuade the plaintiff to execute the deed in question? A. I never did.

Q. Either on the 12th or before the 12th? A. Never.

Q. Did you at any time in the evening speak to her about the deed in favour of the first defendant? A. I did not.

(To Court: Q. Did she speak to you about it? A. No.)

Q. After Father Bourgeois had explained the draft deed did the plaintiff express her willingness to sign that deed? A. Yes. ²⁰

Q. I think you told the Court already that Father Bourgeois said he thought she was doing the right thing? A. Yes.

Q. Even at that stage did she want anybody else's advice? A. No.

I took Father Bourgeois back. The two proctors and Father Bourgeois left with me. Before we left Mr. Modder said to get the stamp money for the deed because he would like to have the stamps impressed at the Treasury. Then I spoke to the plaintiff. I called her into the drawing room adjoining the verandah and told her that the lawyers wanted the money for the stamps. Then she pulled out some bundles out of her³⁰ handbag and gave them to me. She gave me Rs. 2,500. She told me that there was Rs. 2,500.

(To Court: I could not say whether she told me that that was the value of the stamps required. I did not tell her how much was wanted. I think the proctors told me that some Rs. 2,300 odd was wanted. I told her that. She said here is Rs. 2,500.)

I took that Rs. 2,500 with me. I dropped the proctors and Father Bourgeois and came back after lunch and went to Mr. Mack's office and with them went to the Treasury. There I paid for the stamps with the money given to me by the plaintiff. ⁴⁰

Q. When Mrs. Antony told Father Bourgeois that she was transferring all these properties to the first defendant did any question arise at that stage about an out and out transfer by her of all these properties to the first defendant? A. Father Bourgeois also I believe asked some-

body or mentioned about life-interest. Then I believe Mrs. Antony again said that she did not want a life-interest reserved for her because she knew that the first defendant would not take that money as long as the plaintiff lived. But Father Bourgeois wanted the first defendant called up.

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All this time when the conversation was going on between Father Bourgeois and Mrs. Antony first defendant was in one of the inside rooms. She was sent for. When she came there Father Bourgeois asked her "Your grandmother is giving all these properties to you, but do you undertake to let her enjoy the life-interest", she said "yes".

10 I paid for the stamps. I came back with the notaries. I brought them back to Dr. Van Dort's bungalow. Those present at that time were the two notaries, myself, Mrs. Antony, Dr. & Mrs. Van Dort and the first defendant. This was at about 2 or 2-30 p.m. At the time we came back the deed was ready and stamped. It was read out and explained to the plaintiff again. She signed very willingly. Dr. Van Dort and I were the witnesses to that deed.

Q. What happened after she signed that deed? A. After she signed she stood up and said in Sinhalese "Isara Keruwe thakadi kama, me keruwe yuthiya" and she put up her hand.

20 I understood by that that she was cheated to draw up the first deed in favour of her son and what she had now done was the right thing, the just thing.

Q. What was the necessity for hurrying the writing of that deed in that way on that day? A. Because she wanted to come there that day and sign the deed.

Q. Shortly you say she insisted on signing the deed on that day itself? A. Yes.

Q. There was no hurry on the part of anybody else? A. No.

This happened on the 12th April, 1946, which was a Friday.

30 Q. You say by inference the statement in the opening speech of Counsel for the plaintiff that she was taken on a Sunday after Church service and that the parties went by car would be wrong? A. Yes.

Q. This all happened on a week day by arrangement? A. Yes, as I have told the Court.

Q. Thereafter how did the plaintiff get back to Whist Bungalow?
A. In my car.

40 She went back at about 4-30 or 5 p.m. First defendant did not go with her. Thereafter the first defendant resided at Dr. Van Dort's and later on she was taken on to St. Bridget's Convent on the 19th of May, 1946. On the morning of the 12th April there was no suggestion by anybody that the plaintiff was taking the first defendant to St. Bridget's Convent.

Q. It is suggested that one morning in April you said you will come to fetch Imelda to take her to the convent and her grandmother wanted

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to go with her—did you ever suggest that to the grandmother? *A.* I never did.

Q. Or did you ever offer to take her to the convent? *A.* No.

Q. On the 12th April did the plaintiff know exactly where she was going with Imelda? *A.* Of course.

Q. That is, she was going to Dr. Van Dort's? *A.* To leave Imelda there as well as to execute this deed.

Q. Is there any truth in the suggestion that you said that you were taking them to St. Bridget's Convent and drove them to Dr. Van Dort's bungalow? *A.* I did not say that. If I said so I would not have been believed. This was a Friday after the first Friday in April and the convents were all closed at that time.

Q. She was taken then to the convent on the 19th May? *A.* Yes.

Q. By whom? *A.* The plaintiff, Dr. and Mrs. Van Dort, a niece of the plaintiff, another woman who came with her and I also went.

We all met at Dr. Van Dort's by arrangement. The plaintiff came along with her niece and somebody else. The plaintiff came in their car to Dr. Van Dort's. I went there by arrangement and all of us took the first defendant to St. Bridget's Convent on the 19th May. I believe Mrs. Van Dort had arranged with the nuns earlier. The plaintiff paid the fees on that day.

Q. Between the 12th April and 19th May to your knowledge did the plaintiff go to Dr. Van Dort's? *A.* Yes.

Q. How do you know that? *A.* I was told.

Q. On the 19th what were the relations between the grandmother and the grand-daughter? *A.* Quite cordial.

Q. It is suggested there was considerable ill-feeling and a small row as a result of your coming into the house? Was there any such ill-feeling? *A.* No.

Q. What is the small row that is suggested there? *A.* I do not know of any row, except that they are trying to make up it is a row on the 11th when I went there. Probably it is a reference to that when I was refused admission. Till that day there was no row of any kind between myself and any member of the Antony family, Stock Antony or anybody else, or the plaintiff.

I never suggested bringing Father Bourgeois. It is not true to say that in Father Bourgeois' presence the plaintiff was forced to execute the deed and that Father Bourgeois went outside. The deeds were signed long after Father Bourgeois left. I did not tell Mrs. Antony about the property she had given to her son. I say that that was read out by one of the proctors. I never said at any time that the properties given to the son were worth seven lakhs. It was not I who brought the two proctors Mr. Mack and Mr. Modder to Dr. Van Dort's house on the first occasion. They came on their own.

(To Court : I took them on the second occasion. That is twice, once with Father Bourgeois and again just before signing the deed.)

When Father Bourgeois came and explained this deed to the plaintiff he did not suggest to her that she should get some independent advice. Nor did he suggest to her to consult her brothers.

Imelda is the daughter of Chevalier Antony's only daughter Mary Margaret to whose memory he has erected a large school at Mutwal. Mary Margaret had jewellery.

After she was married to the late Mr. Weerasekera to my knowledge he did not get any part of that jewellery.

(To Court : I know nothing about the jewellery.)

First defendant had jewellery. She has most of her jewellery with her now. After the 12th April Mrs. Antony had on one of her visits—this is what I have heard.

(To Court : Q. What do you know about it? A. On the 13th April I left with my family to Bandarawela, when I came back about ten or twelve days after Imelda and Dr. Van Dort at Dr. Van Dort's place told me that Mrs. Antony had sent a message asking the first defendant to come to Whist Bungalow and remove her jewellery. That was about the 2022nd or 23rd. The Van Dorts were not prepared to go with her. Then Imelda told me that she had mentioned about this to Mr. Collin Wijesuriya's daughter who was a friend of hers and that she had volunteered to go with Imelda as Imelda was afraid to go. When that was mentioned I thought of Mr. Collin Wijesuriya. I arranged with Collin Wijesuriya to take Imelda and bring the jewellery back and they did go. I went to Collin Wijesuriya's with Imelda and from there Collin Wijesuriya and his daughter went with Imelda to Whist Bungalow.)

Imelda came back with the jewellery. They came to my place made a list of all the jewellery that was there and kept the jewellery at my place because Imelda wanted them kept with me. This happened on a Saturday evening, on the 27th April. On Monday morning I went to the Eastern Bank took a safe deposit vault and deposited the jewellery, and I got a receipt from the Bank which I produce marked 2 D10.

B. F. Gunasekera and Jeremias Gunasekera are the brothers of the plaintiff. They do not have property of their own.

I know Minnirangwatte. It is a land that had been gifted by Chevalier Antony to Mrs. Antony and on her death it was to pass over to Imelda. I think it is over two acres in extent and is situated in Alutmawatte Road, Mutwal, containing boutiques, barber shops, number of small cottages and tenements bringing an income of over Rs. 400. The plaintiff is entitled to the entirety of that income.

When Imelda went on the 12th April to the church in the morning and from there to the Van Dorts she took no clothes at all with her.

Q. How did she get her clothes? A. When Mrs. Antony finally went back to Whist Bungalow—I did not take her, she went in my car,

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I did not want to go with her because of the trouble on the 11th—she sent back a large leather suitcase with all Imelda's clothes, and also on the 27th when Imelda went to bring her jewellery she brought more of her clothes.

Q. After the signing of the deed on the 12th April was there any request made by the plaintiff to those who were there? A. Yes. She wanted us to keep this a secret, about the signing of the deed. She wanted it kept a secret till she was able to get "Hilland House". That is one of the houses of Mr. Antony till she was able to leave Whist Bungalow and go into that house and take Imelda also there.

10

Imelda was entered into the convent. While at the convent I went to see her. On one of those occasions I met Father Bourgeois there.

Q. How did you come to go there at the time Father Bourgeois was there? I received a telephone message from Mr. K. C. Nadarajah on a Friday or Saturday asking me to see Imelda as early as possible. Imelda had telephoned from the convent to Mr. Nadarajah. I have no telephone in my house. Mr. Nadarajah lives close to my house and he is a friend of mine and I had told Imelda to telephone to him whenever she wanted me.

I went there on a Friday or Saturday. I saw her. She said that Father Bourgeois came there and wanted her to go with him to Whist Bungalow and that he had made arrangements to adjust matters. She did not go that day. She had said she would go on another day. Father Bourgeois promised to come again. She said that in order to gain time as she did not want to refuse Father Bourgeois. She said that Father Bourgeois would come in a day or two and wanted me to be present when he came. So I told her to similarly send a message to Mr. Nadarajah if and when Father Bourgeois came there. On a Sunday Mr. Nadarajah came and told me that Father Bourgeois had come. I went with Mr. Nadarajah to the convent. When we went there Father Bourgeois and Imelda were there.

30

Q. Did you yourself object or in any way influence the first defendant or advice her not to go? A. No, I did not. On the contrary I told her if she wished to go she could go but she said she did not want to go. She did not in fact go.

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Cross-examination by Mr. Herat—Nil.

Cross-examination by Mr. Hayley.

Q. What do you suggest 2 D10 proves to anybody? A. It proves that on this day we took safe deposit vault and put in some valuables.

Q. It is not said so? A. Yes.

Q. Then what does that prove? A. It proves that we have 40 taken safe deposit vault on the 29th April, 1946—that I hired a safe.

Q. I gather that your attitude towards this transfer to Imelda was one of indifference—you had no interest in the matter? A. I had no interest in the matter.

I took no interest. It did not matter a bit to me whether the old lady transferred her property to Imelda or not.

Q. It was only by accident that your name comes into play at all?

A. I got dragged into this from the 11th April having taken Mrs. Antony's message.

I am sure that I got a message from Mrs. Antony on the 11th. I have made a statement to my lawyers. I believe it was taken down on paper. It was made probably a couple of weeks before the first date of trial. On the 11th Mrs. Antony gave the message personally to me to be conveyed to Dr. Van Dort. I met her at Whist Bungalow. I do not know who told Dr. Van Dort to communicate with me. I suppose he knew that I was interested in Imelda's welfare.

Q. You were interested in getting Rs. 150,000? A. I was not interested in that.

Q. You yourself have been an Excise Inspector for how many years? A. 20 years.

Q. What is your salary? A. My salary is about Rs. 400 a month.

Q. It did not much interest you that Imelda was going to get Rs. 150,000 for your son? A. I knew that Imelda had some money. I was not going to be interested in what more she was getting. I would have been pleased with what she had.

Q. You did not think it is a most extraordinary good fortune for a boy like yours for his wife to have this money absolutely without any restriction without even a *fidei commissum* or anything? A. Personally I always thought it was not good for a young couple to have too much money to start in life. I always thought it was not the best thing for a young man to start with too much money.

Q. You say the Antonys picked out your son as the boy to marry Imelda? A. I suppose so. That is why they sent the proposal.

Q. Not that he would be a very good match for an heiress of the famous C. S. Antony? A. It is not that.

Q. Not much of a match? A. He was a student. Once he has passed out he will be a doctor.

My son did not have any trouble over an examination.

Q. Did he not sit for an examination and was he not put back one year over some trouble about some papers? A. No. There was no trouble about some papers.

He is still a student. He will have to be a student altogether for six years. He got in in 1943. At that time he had no money of his own.

Q. Imelda you knew was going to be a very rich girl? A. As a matter of fact for a fairly long time I did not know what she was coming in for.

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I have heard of C. S. Antony. I knew he was reputed to be a very wealthy man. At one stage he was badly involved and later on I was told he had made good. I knew that he had left a big estate at the time he died.

Q. Then in the ordinary way you knew Imelda will be a rich woman?
A. But I did not know the extent.

Q. Do you know that Imelda would probably be a rich woman?
A. I knew that she would be well off.

Q. Up to December, 1945, I understand from your opening evidence that you hardly had any contact with the Antonys—you practically had 10 nothing to do?
A. Not that I had nothing to do. I had been there about two or three times a year. I did not say that I went there only once in 1943. I said I went three times.

Q. You saw them eight times in three years altogether?
A. Yes, I was most of the time in the outstations.

Q. Your son was not even known to them. Imelda said she never met him?
A. Yes.

Q. Can you tell me how out of all the people in the city Antony should pick your impecunious son to marry Imelda?
A. Our community is a small one and it is further reduced at least divided by different 20 religions.

(To Court : People of the Roman Catholic faith are very few in number The select choice is very limited.)

Q. The only reason you can give is that you were both Catholics?
A. No. The other reasons are there was the prospect of his becoming a doctor, there was no doubt about that. We were respected people in Mutwal.

Q. You thought that was sufficient for them to pick him out?
A. I did not think so.

Q. While he was still a student and to give her all this money?
A. I did not think so.

The proposal came and I was agreeable at that moment. This proposal was somewhere in August, 1945. I suppose they must have seen the boy. I do not think Imelda said that she had not seen him. She must have seen him in church. I suppose they have not spoken to each other. I did not suggest about this marriage, nor did my brother suggest about it. A lady called Jane Antony, suggested this marriage. She is a relation of Mrs. Antony. I cannot say what the exact relationship is but they were very good friends. Jane Antony's niece was married to my brother. I knew her quite well. She had spoken about this marriage to 40 my brother and my brother came and suggested it to me and later on she also spoke. This suggestion was originally brought by Jane Antony and my brother. Mrs. Antony had asked her to.

Q. Mrs. Antony picked out your student son as the person to marry this girl years before he was qualified and he had not got a cent in his name? A. Yes.

The evidence that Mrs. Antony strongly objected to this wedding is absolutely false.

I paid for the reception. It was a fairly big reception at the Grand Oriental Hotel. The reception itself cost me nearly Rs. 2,000. I had to pay that. I had my own money with me to pay. I did not ask Mrs. Antony to pay. I did not get anybody else to ask her to pay this money.

10 Q. You know a letter in Sinhalese was sent to her asking her to spend? A. I got that letter sent. I did not say that she should spend for the wedding. A clerk in our office wrote that letter. I cannot read Sinhalese.

(Shown the letter). I cannot swear that that is the letter nor can I say what is written in it. I saw the letter for a short time. The clerk in our office wrote it at my dictation. (Translation of the letter shown to the witness).

Q. Is that a correct translation in English? A. This is about correct.

20 (Mr. Hayley marks the document P25.)

(Sgd.) N. SINNETAMBY,
A. D. J.

Lunch interval.

(Sgd.) N. SINNETAMBY,
A. D. J.

175/ZL

26-5-48.

After lunch.

OLIVER DE ZOYSA re-called, sworn. (Cross-examination—contd.)

Up to December, 1945, I did not have very much to do with the
30 Antony family; I may have seen Mrs. Antony three or four times in all during 1945; only once, I believe, in her bungalow; at that time I was living in Borella, about five miles from Mutwal. Imelda had a birthday party in December, 1945. In January, 1946, Mrs. Antony fell ill—may be about the end of December; she had a nurse to look after her; Mr. Stock Antony asked for my help in his mother's illness; he appeared to be helpless as to what should be done for her. He was rather friendly with me at this time. That year I had seen Stock Antony oftener than his mother, he has seen me in my bungalow as well as in the office. When he asked for help I went there and told what should be done. I believe
40 Dr. Van Dort had suggested that Dr. V. P. de Zoysa be consulted and I took him there in my car; I helped to get the nurse. Stock was friendly with me then; he was harmless as far as I was concerned, though I knew his shortcomings; he lost his temper and sometimes it was very difficult

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to make him understand things. But that was his nature. He did not show signs of being interested in things outside. I know he was interested in his father's business. After old Mr. Antony died, Stock and his children—there were several of them—continued to live with his mother in that house; I knew them all. Mrs. Antony appeared to be getting fits at this time; the doctor did not think it was very serious. I have no recollection of anyone having suggested that she had cerebral malaria. She was very weak. At this time I used to go there fairly often. Mrs. Antony was ill for only about a couple of weeks. I say that because after she got well we were invited to the bungalow about the latter part of January. I used to go there about every other day. Imelda was living there and till the nurse was brought she was looking after the grandmother. Whenever I went there I generally met Stock Antony. But he would not do anything for the mother; I remember an occasion when she had a fit and Stock Antony would not come near her bed. He was quite friendly with me.

About this time a short time afterwards, Stock Antony suddenly turned against me.

I believe it was because of Imelda having left the house, and may be because he knew that I used to go to Van Dorts and was friendly with her. I never interfered in any of his family affairs. He showed he was angry with me. During all this time we took it that there was an understanding between Imelda and my son—since the day plaintiff gave him a ring. I was the father of the future husband. But I had no occasion to speak to Imelda about my son even at Whist Bungalow because I thought it was not proper for me to do so; I thought it was the duty of her grandmother to do so. Nor did I take my son there when I visited Whist Bungalow. It was Stock Antony who telephoned me to come whenever his mother got the fits; I don't know whether he did so at his mother's request. I cannot say whether these fits made her mentally weak; I did not ask the doctor about it.

30

Imelda had a quarrel with her uncle. I know only what she told me about it.

Q. Do you know whether Mr. Antony objected to your continually telephoning to Imelda? *A.* I don't know; I used to now and again telephone and ask how Mrs. Antony was, sometimes Imelda came to the 'phone and sometimes Stock Antony. Imelda telephoned to me at times; once or twice she gave me messages from her uncle to the effect that he wanted me to come; there was no particular conversation with Imelda only.

Imelda met my son for the first time at Sir Ernest's bungalow, at a party there. Imelda went with Stock and his wife, the old lady was not too well to go; there were no invitations. All the people came without invitations, just to congratulate Sir Ernest, not to a party. It is not true that I asked Stock to come and bring Imelda also. This was the first time Imelda met my son. Mrs. Van Dort introduced her to my son. I knew the Van Dorts for a long time; I knew Mrs. Van Dort after she

married Imelda's father ; the doctor I met at Nuwara Eliya ; now and then I used to meet them at Bambalapitiya, and they used to come and see me. They spoke to us about a marriage proposal, after this introduction. I did not ask Mrs. Van Dort to introduce Imelda to Aenian ; only later on I came to know that she had been introduced to him. From August till the time of this party she had not met him. I do not know whether she had wanted to marry him ; I did not ask her. I do not think it is an "extraordinary piece of luck" that my son should have been engaged to her ; that is not the way I looked at it. When she went
10 to Van Dorts to stay there I saw her from time to time. Even before that I was friendly with her ; she used to call me "uncle Oliver" from her childhood.

The only occasion when this quarrel with Antony could have occurred was on the 11th April. He did not want me to come inside the house ; he may have had his reasons. It is false that the reason was that I was getting round Mrs. Antony in order to have Imelda married to my son. The reason I can think of is probably that after Imelda left Whist Bungalow and after I had heard of the way he had behaved towards her I ceased to visit Whist Bungalow. He more or less said something to that effect
20 when I went in after he opened the door. I asked him why he was behaving like that ; then he said something nasty about Mrs. Van Dort—something to the effect "if you thought you could get Mrs. Van Dort to fix up this marriage you are mistaken". But personally he was quite happy about this marriage, and he liked it. I cannot say what my feelings were when he told me this, or what my reactions were.

On the 10th April I went up there ; Dr. Van Dort asked me to go ; Imelda had wanted me to come there. I did not go into the house that day ; as I drove up I saw Imelda walking in the garden ; I stopped her and asked what the trouble was, and she told me ; I did not go to the
30 house at all, nor did I see Stock that day ; I wanted to see him, and called his daughter and sent a message ; the girl came after a little while saying he was taking a bath or something like that.

I had had no discussion with Imelda about her properties up to this time. I heard the Van Dorts had been discussing with her about it. I discussed with Van Dort. He told me first that they had taken Imelda to Mr. Mack to retain him as her lawyer, and afterwards that they had consulted Mrs. Antony and with her permission consulted Mr. Mack. I suppose they told this to me because they knew this girl was engaged to my son. I cannot say whether I thought it was a good thing to have a
40 lawyer ; I found out from the Van Dorts what the properties were, that the intestate estate contained certain properties, and certain other properties in the Fort and Pettah which were in Mrs. Antony's name had been transferred to her son and that later on Mrs. Antony had said she was not aware of these transfers ; whether they were transferred subject to mortgages I do not know. I only thought it was a rotten thing for Mrs. Antony to have been cheated. I heard this some time in March. Every time I met the Van Dorts I did not talk about the properties. I don't

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think they had a hope of getting the properties for themselves. I understood these were notarial deeds transferring property to her son ; no one told me there were heavy mortgages on them. This information was given me by Dr. Van Dort.

Q. What is the "cheating" he related to you about? A. That Mrs. Antony had told him she was not aware that she was signing a deed of gift, but that she was under the impression that she was signing some papers in regard to the business. This is what Van Dort told me. I don't know when Mrs. Antony had told him this. I knew Mrs. Antony myself for a long time.

10

Q. Do you think Mrs. Antony was incapable of understanding what transferring property by a deed was? A. She should have known.

Q. What was the suggestion that a proctor or notary had cheated her? A. If what Mrs. Antony had said was true the notary also must have been concerned in the conspiracy.

Q. Did you tell all these things to your proctor before you got into the box? A. I don't think I mentioned all these.

Q. Are you aware that the notary, Mr. Rasanathan, was in the box a long time and not a single question was put to him on that point? A. I was present in Court ; I cannot say. I suppose if people wanted to cheat it could have been done. I did not interest myself to the extent of finding out what could have happened. I do not know why Mrs. Antony should say that Stock Antony suddenly started cheating her. I had nothing to do with the Antony's private affairs. We were distantly related to the Antonys.

Q. You were told this at the end of March? A. Towards the latter part of March.

Q. From that time up to the signing of the deed in April you took part in everything that happened? A. No, I was told what had happened, but I never took part in everything.

30

I don't know why Imelda wanted me on the 10th April. I now know it. That was the only occasion she had a chance of coming to the telephone, I believe. The message Dr. Van Dort gave me was that Imelda wanted me to come there immediately ; he said there was some trouble or other, that Imelda said there was going to be some trouble, or there was some trouble ; Dr. Van Dort did not tell me what it was ; he did not know himself ; he did not tell me that Imelda had seen Mr. Rasanathan seated at the table with Stock Antony. At that time I did not know what this trouble was, whether it had anything to do with property. I believe I thought that Stock Antony was again being nasty to her, but I cannot be certain. (Counsel reads to witness the evidence of Imelda on this point). I got this message in the afternoon about 4 p.m. Dr. Van Dort only told me this girl had rung him up and asked me to come ; he did not say anything about the deeds.

I knew what was happening because they used to tell me. But I did not take any interest in such a way as to interfere. I went there on the 10th but did not go into the house at all, nor did I speak to Mrs. Antony. I spoke to Imelda for a little while and went away. Fr. Bourgeois had come and gone. I went on a message, I found there was nothing for me to do. I cannot say from where I went ; in view of the time I think it was from the office. I have an official diary where only official entries are made. Stephen who drove the car is an Excise Sergeant.

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Q. Were you entitled to make use of him for private purposes? **A.**
10 We do that provided there is no other work.

On the 11th I got a message from Dr. Van Dort at the office. I was not in continuous touch with him over this matter ; he telephoned and told me he was rather worried, that he telephoned Whist Bungalow from the hospital, Stock Antony came and abused him, his wife also had rung up Whist Bungalow independently of him and she had been unable to speak to Imelda, and he was worried about her safety. He may have thought that the uncle had done something. The previous day I think Imelda told me that after Fr. Bourgeois came and went Antony had torn off some papers. I cannot remember whether she said that she picked up
20 those papers. Dr. Van Dort rang me up about 12 noon or 12-30 p.m. and I went in the evening. I was in uniform. First of all the watcher did not allow me to get in ; I had to push him by his neck to get past him ; he did not push me back. I do not think it was insolent on my part to have done that. This man said it was Stock Antony who gave him instructions.

Q. Would you consider it great insolence on the part of Stock Antony if he came to your house and pushed himself in that way?
A. I should think not if there were others in the house having equal rights with me and did not object to his coming. I thought it was all
30 right ; I went up to the house, near a window which was slightly open, and saw Stock Antony ; I asked him to open the door and he said " clear out ". I did not expect him to treat me like that. I said I am not leaving this place, I must speak to your mother, because I wanted to find out what was the matter with Imelda. After a little while he opened the door, he did not shut me out.

Q. Didn't he have a sword in his hand? **A.** No.

Then I went up to his table and had a chat with him. I asked him why he was behaving like this, closing the doors and asking me to go away. I did not ask him why he disliked me. Then he said " you went to that
40 Burgher bitch to fix up this marriage ". I do not know why he said that ; I was surprised ; I thought he approved of the marriage. The old lady did not dislike the marriage. He said " I will break her legs, I will shoot her " in reference to Mrs. Van Dort. I told him " don't talk like a fool, other people can also do that ". Then he calmed down. I was not angry. I was not downhearted at all because of his attitude. He was not treated as an important man when his father was living. So he went

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on blackguarding Mrs. Van Dort. He did not say why ; I had no time then to think why he behaved like this ; I may have guessed at that time, but I cannot be sure. Now I know why, because he did say that Imelda was taken and kept at the Van Dorts. I said I wanted to speak to his mother. He did not object. After a little while he calmed down ; he called the boy and sent for his mother ; she came to the next room and beckoned to me. I asked her what is all this trouble. We were fearing earlier that Imelda was not quite safe that day. When I went to the house Stock Antony was writing at his desk, Mrs. Antony was doing her work in the house and Imelda hers. But as a matter of fact I knew 10 Imelda had been crying the whole day until I came there. I could not see the whole room from where I was seated with Antony. Later I saw the old lady, she beckoned to me and when I went in she took me to the middle of the room where I saw Imelda also standing near a small table. I talked to Mrs. Antony and asked her what this trouble was. She said " Moota Pissu " (he is mad). Stock Antony was still in the office room, just then someone came to see him and he went out to the verandah ; if he had remained seated where he was he would have heard this remark. I may have said this to my proctors before I got into the box. The old lady said " This child cannot stay here in this house, can you take her 20 away now ? " I said " no, I don't think it is right for me to take her away, it is for you to take her away ". At that stage I told her I was not allowed to enter into the garden. Then she said she would be going to the church and asked me to send the car there. I did not speak to her about Imelda's properties, but she asked me to convey a message to Dr. Van Dort asking him to have the deeds ready.

Q. What deeds ? *A.* Deeds of gift, I suppose. The only thing she said was to have the deeds ready ; I cannot say whether I knew what deeds they were. (Counsel reads Imelda's evidence on this point and witness states " It is a mistake "). There were no deeds that I could 30 have asked her to have ready.

The next morning I sent a car through Stephen.

Q. Was it his official work ? *A.* No.

This was a car belonging to Christie Abeysundara, a friend of mine. Mrs. Antony wanted a car and I sent it. Mrs. Antony was taking Imelda to the Van Dorts. On the way they called on me.

Q. Why did she want you to go to Van Dorts ? *A.* I do not know, I never asked her. Probably she wanted me to be there when she was signing the deed. I am unable to say whether I knew that day or earlier that she was signing these deeds. I knew some deeds had to be 40 signed ; I did not see the drafts. Some time after I went to Van Dorts I knew how much the stamps would come to. I did not know that earlier at Whist Bungalow. On the 11th evening there was no arrangement for me to go to Van Dorts, nor did I tell Mrs. Antony that I would be in the office at Pettah. I am very often in the office attending to correspondence. There is no official car at my disposal ; it was not the office car

that I sent. When I left office the next morning it was about 7-45. I cannot remember what entry I made in the log book on leaving. I went to the Superintendent's bungalow and asked for leave. I may have made an entry to that effect, that I was leaving to meet the Superintendent.

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Q. What sort of entry have you to make? **A.** Ordinarily I would be expected to say what I was leaving for, if it was official. But what entry I made I cannot say.

I was not a leading figure in all this. When I got there I think Mrs. Antony and others were either having tea or just finishing. The proctors came after I went. I did not engage Mr. Modder; I believe it was Dr. Van Dort who engaged him. It was I who paid him his fees. The proctors came there about 10 or 15 minutes after I went. First of all there was a discussion. I did not take part in the discussion, I just stood by; I did not want to, because it was not my business; I thought it was more correct for me to keep out. I did not think there was anything improper in what happened. The notary's fees were paid long after, not on that day. When Mrs. Antony was told about the notary's fees she said she would bring it, but she did not; I think it was about three weeks or a month later, after several reminders, that I paid.

Q. Did it not strike you, here was an old lady of 70 signing a deed, her son should know about it: did you not think she ought to be asked whether her son should be informed? **A.** No, I did not.

Q. Did the Van Dorts do it, as far as you know? **A.** No, as far as I am aware I don't think anyone did. If a person has cheated already what is the point in going and telling him?

Q. But he has been a friend of yours? **A.** A friend of a sort. Even it was a very good friend, if he had once cheated I would not have informed him. I might have said Mrs. Antony was subject to hallucinations. But she went to Bambalapitiya on her own; nobody took her there. She was at liberty to go where she liked.

Q. Did you know that she was transferring the properties? **A.** Yes, after I went to the house—that she was transferring all the properties she got from her husband, to Imelda, barring a few.

Q. Did you not think it was a serious matter, a serious occasion? **A.** It was an important occasion. I don't know what you mean by "serious".

Q. You were one of the prime movers? **A.** I was not. I was dragged into.

Q. But you spent the whole day there? **A.** Yes. I thought it was a big business that she was doing; I did not think it was necessary to speak to her son.

Q. You said Modder told her something about the life-interest; what was that? What happened exactly? **A.** I think it was Mr. Modder who asked her whether she wanted her life-interest kept for her, if I remember right. When that was suggested to her, her main objection

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was that her son might take that also ; therefore she said she did not want it, she could trust her grand-daughter to give whatever money she wanted.

I know what transfers of property are. Mrs. Antony appeared to understand all about life-interest ; I did not explain to her.

Q. What was Fr. Bourgeois brought for ? **A.** He was brought at the suggestion of Mr. Modder to be present and explain the contents of the deed. Imelda was questioned only when Fr. Bourgeois came.

Q. Do you think he could understand English deeds ? **A.** Oh yes. I should think he was able to translate a deed for the old lady to understand. He preaches in Sinhalese. He was given a piece of paper containing a list of the properties to be transferred.

Q. Do you suggest he was brought there merely to do that ? Why couldn't you do it ? **A.** No one suggested that, and I did not want to ; I purposely avoided having anything to do with it. Fr. Bourgeois translated the deeds, but not word by word.

Q. Mr. Modder said he was never given the deeds. **A.** He must have been given a draft of the deeds. As far as I remember what Fr. Bourgeois said was that Mrs. Antony was making over to her grand-daughter such and such properties, and he mentioned them. I don't say he translated every word mentioned in the deed. He did that because Mr. Modder wanted it. Fr. Bourgeois was not truthful in Court.

Q. And it all seemed very silly to you ? **A.** I would not say it was silly. It was useful because there was another party explaining what was being done.

I understood she was transferring all her properties to Imelda. I knew Whist Bungalow was one of them.

Q. What happened to the deeds ? **A.** I think they were taken by Mr. Modder to be registered, and after that Mr. Mack took it. I don't know why. They did not give it to me. I did not ask for it. 30

Q. How long had Mrs. Antony lived in Whist Bungalow ? **A.** About 15 years ; I knew Whist Bungalow after they bought it as their home and settled down ; she continued to live there after the old gentleman died.

Q. If you had been asked for your advice, would you have advised her to transfer her whole interest in it to a young girl who was just getting married to a stranger ? **A.** I cannot say ; it all depends on the circumstances. I do not think I would have advised her not to ; this was not a stranger ; if I had complete trust in her I would have advised her to do it. 40

Q. She could have turned her out ? **A.** I suppose she could have. I don't think if Imelda married my son she would have been more interested in my son than in her grandmother ; Imelda was willing to let her have the life-interest,

Q. Have you suggested to Imelda, since you promised to transfer the life-interest why don't you do it now? **A.** She has been swindled. I have not done that; it is not true that the old lady has been swindled.

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Q. What was the state of her mind when she came to Van Dorts that morning—calm and collected? **A.** She was not quite ordinary as if she were at home; she used to get angry now and then; for instance, when there was a suggestion of getting someone to advise her, she would say "No, I don't want anyone to advise her". Now and again she used to get angry. But she was far from being unbalanced.

10 **Q.** In regard to these statements about her son having swindled her, who told her that? **A.** I don't think anyone told her; I am not aware who told her.

Q. How did she find out? **A.** I think Dr. Van Dort or Imelda or both mentioned to her when she came to the house. This is all what I heard. I was not always there. As far as I remember she did not mention anything about Rs. 7 lakhs worth of property having been transferred. She told the Father that her son had cheated her and got the properties transferred.

20 **Q.** Why had she found it out only that morning? **A.** I believe she had found it out earlier. That is why I say when she spoke to Fr. Bourgeois she used to get angry about what the son had done and she was talking of going to Court.

Q. Fr. Bourgeois said she was not in a fit condition to sign a deed? **A.** Not at all; she was in a perfectly fit state.

Q. Why was Fr. Bourgeois called then? **A.** Mr. Modder wanted some independent person to be there to tell her what was to be done.

Q. How much did she give you for the stamps? **A.** Rs. 2,500, in the drawing room of Van Dorts', out of her handbag.

30 **Q.** How did she calculate that amount? **A.** I don't know; perhaps Dr. Van Dort had told her to give that amount. I was asked by Modder to get the money for the stamps and I got the money from her. I think Dr. Van Dort had told her to bring that amount, I am not sure, that is what I think.

Q. Why did he not take it? **A.** He was not going out with the lawyers. I was sent to bring Fr. Bourgeois with the lawyers. When I took Fr. Bourgeois back the two proctors also went with us to their office; I went to Mutwal; at that stage the stamps had not been bought. After dropping Fr. Bourgeois I came back to Mr. Mack's office, and all three of us went to the Treasury where the money was paid and the stamps were
40 embossed. The life-interest was discussed on the first occasion, earlier.

Q. Did you note down that theatrical remark of Mrs. Antony? **A.** No.

Q. Did you tell your proctor about it before Mrs. Antony was examined? **A.** I believe I did. As soon as she signed she got up from her seat and made that remark; I do not know whether she was

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excited, but she appeared to be quite happy about it. She said "Issara keruwe thakkadi kamai, me keruwe yukthiyai". What I understood was she was referring to the signing of the deeds in favour of her son. I believe that was somewhere in February.

Q. Did you understand that the transfers to the son were subject to big mortgages? A. No, I did not.

Q. Did you understand it was subject to a *fidei commissum*? A. Yes.

I do not know whether Aenian was there at the time of the signing of the deed; I think he came later; I came to know that. 10

Q. Did you not congratulate your son on what his intended bride was going to get? A. No.

Q. About your going to the convent when Fr. Bourgeois was there, when was that? A. Towards the latter part of May last year. I got two telephone messages with regard to Fr. Bourgeois' coming to the convent; the first was after he had come and gone, on a Friday or a Saturday. I got the message through Mr. Nadarajah who is a good friend of mine. Anybody who wanted to give me a message at that time knew it should be given through Mr. Nadarajah's place. Mr. Nadarajah had nothing actually to do with this matter personally. It was Imelda herself who 20 had telephoned and asked me to see her because, she said, Fr. Bourgeois had come there. That is because I was the only person who was looking after her at that time. And I was the only person she could have got at, besides the Van Dorts. I did not know what it was about till I went there. The distance was not even half a mile. Imelda told me Fr. Bourgeois had told her he had made arrangements to get some deeds signed, wanted her to go with him to Whist Bungalow and make peace with Mrs. Antony and her uncle. I don't think she had really anything against Mrs. Antony at that time. "Making peace" was in connection with her filing action and because Mrs. Antony had nothing to do with 30 her for many months. I gave Imelda no advice about it. I asked her whether she wanted to go, and she said no. Whether Imelda had told Fr. Bourgeois on the previous day that she would accompany him I do not know because I was not present.

(Sgd.) N. SINNETAMBY,
A. D. J.

175/ZL

28th May, 1948.

Appearances as on the previous date.

Errors in previous day's proceedings are corrected by consent.

OLIVER G. DE ZOYSA sworn, (recalled). 40

Cross-examination—contd.: When I went up to Mutwal on the 12th April to fetch Fr. Bourgeois I told him that Mrs. Antony wanted to see him. The statement of Fr. Bourgeois that I produced a deed in Van Dort's house is not true. I had no deeds to produce. When Fr. Bourgeois said that I was seated in Court. He made several incorrect statements

and I drew my proctor's attention to these statements. I cannot say this was one of that. I believe I was seated behind the proctor. The proctor was next to Mr. Cyril Perera ; if I remember aright he was behind Mr. Cyril Perera.

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Q. Fr. Bourgeois also tells us that Mrs. Antony on that occasion had said that more than half of her estate had been taken by the son—did you tell her that? A. No, I did not.

Q. Did you think so? A. I did not know anything.

Q. Did you think that more than half the estate had been taken by the son? A. I had no occasion to think. I did not know what exactly she had and what the proportions were.

On the 11th evening after my visit to Whist Bungalow I went and saw Dr. Van Dort ; I went to give him the message. I did not tell him that Mrs. Antony wanted him to expedite the transfer. I told him that she wanted the deeds ready the next morning. What Dr. Van Dort has said I do not know. I cannot remember whether I used the word “ transfer ”. But I gave this message that Mrs. Antony wanted the deeds to be ready the next morning. At the time Mrs. Antony said this I don't think I had any idea of what she was talking about. Now I remember, after I went and gave this message to Dr. Van Dort I asked him what this message was. I knew what it was after I went to Dr. Van Dorts.

Q. When Mrs. Antony asked you to tell Dr. Van Dort to expedite the transfer did you know what she was talking about? A. Not at that time ; I had no idea then.

Q. After all you have done in this matter you have no idea why she asked to expedite the transfer? A. I do not know.

Q. But Imelda said that her granny told you to get the transfer deeds drawn? A. No. I did not.

Imelda is truthful. I do not know whether she is very clever. I have seen a good deal of her during the last few years. I would not say she is very clever.

Q. Speaking of the 12th April, Imelda told us : “ I knew the proctors had come because granny was going to transfer her properties to me. Granny knew that because she had told uncle Oliver to make the arrangements ”? A. Probably what she meant was that I should convey this message and Dr. Van Dort should make the arrangements. I was not asked to make any arrangement except to give this message to Dr. Van Dort to make the arrangement.

Q. Mrs. Antony asked you to make the arrangements for the transfer deed, so Imelda tells us? A. No. She is mistaken about this message.

Q. Did you know on the evening of the 11th April that she was going to sign a deed at Van Dorts the next morning? A. That is what I thought she was going to do, on the 11th evening.

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—continued.

Q. When you got there was Mrs. Antony shown any document in your presence on the 12th morning by the proctors or anybody? **A.** I do not know whether any documents were shown to her—I cannot say.

The car that was sent to the church on the 12th morning was borrowed. I arranged to borrow it on the 11th night. I possessed a car. I did not want to send my car. I wanted my own car and I thought it best to send another car. When I got down to Van Dort's house there were two cars, my own and the one borrowed. When I went away with the proctors to fetch Fr. Bourgeois I used my car. This was the only car that was there because after I went to Van Dorts I sent the other car away. The bor-¹⁰rowed car was sent away and it did not come any more to that place. I drove the car. I think I sent Steven, the Excise officer back to the office. I used my car the whole of that day up till the matter was finished. I just did not want to fetch Mrs. Antony that morning from the church in my car; I cannot say why. For one thing, the car had to go early morning to the church and probably Mrs. Antony had expressed a wish that her son should not know where she was going. Those are the reasons that made me to get another car. And others might have seen my car and informed people at Whist Bungalow. The church was not very far from Whist Bungalow. One cannot have seen the car from a window of the²⁰ bungalow. When Mrs. Antony went back in the evening to Whist Bungalow Steven took her. After the deeds were signed I went back to the office and from there I sent the car, that is, my car with Steven driving. I did not want to take her back to Whist Bungalow. I did not want to go for one thing and it could not have made any difference; only thing is she had to go back and it did not matter who drove the car. I went to my office in Pettah and sent the car back to Bambalapitiya to take Mrs. Antony back to Mutwal. This was not a waste of 12 miles running. In any case the same distance had to be done by the car. I was at Bambalapitiya and Mrs. Antony was at Bambalapitiya. I wanted to go to³⁰ the Pettah after the deed was signed. She did not want to go home at that time. After the deed was signed she was not anxious to go home at once. Besides, I had to take the lawyers back from the house and I went and left the lawyers. The two lawyers also had to be taken to Fort in my car after the signing of the deed. There was room in the car, Mrs. Antony could have gone but I did not ask her. It was an Austin car, there was plenty of room for four. I did not take Mrs. Antony because she did not want to go at once. I did not ask her whether she wanted to go. As a matter of fact I said I will send the car back for her. There was petrol control then. I had no difficulty about coupons. I had⁴⁰ coupons, my coupons were being used.

Q. When did you first hear that Mrs. Antony wanted to transfer her property to Imelda? **A.** If I remember aright it was on the 11th April night.

Q. You had been seeing the Van Dorts almost daily for a few days before the 11th? **A.** No. After Imelda was taken away I don't think I went there till the evening of the 10th April.

Q. Dr. Van Dort says that he told you on the 2nd April, is it true or is it not? A. I cannot remember.

Q. This is what he says: "When Mrs. Antony removed Imelda to Whist Bungalow on the 2nd April then Oliver Zoysa came home and I told him of the old lady's wish"? A. I think that is a mistake. I don't think that is correct. He must be making a mistake. As a matter of fact I did not go there on that day.

On the 12th April my wife did not go to Van Dorts. She did not go there at all. If Mr. Mack says she was there that is not correct, he must be making a mistake. She did not come there during the day, there was no necessity for her to come there.

Q. She was interested in all this as you were? A. She had nothing to do. As I said we were not out for all this money. We were not after the girl's money by any chance.

Q. Mrs. Antony says you told her that morning that her son had got 7 lakhs worth of property and asked her to sign this deed in favour of Imelda? A. That is utterly false.

Q. Did you have any discussion with Dr. Van Dort about Mrs. Antony's properties before the 11th April? A. I don't think we spoke about Mrs. Antony's properties. Dr. Van Dort had spoken to me about the properties of Imelda in the intestate estate but I don't think there was any talk about Mrs. Antony's properties.

Q. You discussed it openly I suppose in front of Imelda? A. I cannot say who was there and who was not there, but it was in his house.

Q. I asked you the last time about your son Aenian and the medical examination; was he put back to the date of his entrance examination in the Medical College? A. No. The first year in the 'Varsity he failed his examination. He failed the first year not because he was found cribbing. I was not so informed by the Vice-Chancellor. He was never put back for four months. I am certain of that.

Re-examination—(To Mr. Dissanayake).

I was asked why an impecunious student should have been selected to marry Imelda. I said that my community is small and added that a small community is made smaller by the fact that there are different religions—very few Roman Catholics. Amongst the Roman Catholic section of my community the choice is still further limited.

(To Court: By community I mean "Salagama", that is, caste.)

C. S. Antony was a very respected man and was very wealthy. When Imelda's mother married Hugh Weerasekera he was an Excise Inspector. I am an Excise Superintendent.

(To Court: When I was called into the box I said I was an Excise Inspector. That is a mistake. I was made a Superintendent from the 1st of this month.)

Sir Ernest and party did not attend the wedding of Imelda as they were away in England at that time. Sir Ernest is my first cousin.

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2nd Defen-
dant's
Evidence
O. G. de
Zoysa
Cross-
Examination
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2nd Defen-
dant's
Evidence
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Re-
Examination
—continued.

On the 11th April when I went to Whist Bungalow Stock Antony was angry. As I said before I believe it was because Imelda was being kept at Dr. Van Dort's and Dr. Van Dort had retained a lawyer to look after her interest. And probably the refusal on the part of Mrs. Antony to sign some documents the previous day.

I have been of help and service to Mrs. Antony and Imelda even before there was a proposal of marriage. I went on a pilgrimage to Rome, Palestine and other places and they had occasion to ask for my help. We all went together. I was of assistance to them.

Jane Antony and Mrs. Antony I said were related. Now I know that 10 Mrs. Antony and Jane Antony are first cousins. On a certain occasion it was stated that I went with my brother to Whist Bungalow. Jane Antony had brought the proposal. Mrs. Antony wanted to see Imelda married at once because she said she was feeble and before anything happened to her she wanted to see Imelda married. But I was objecting all the time because I wanted the marriage to take place after my son passed his examination. Then Mrs. Antony sent a message asking us to come and discuss the matter with her. That is why I went with my brother to see Mrs. Antony.

The original deed of gift which was executed on the 12th April is with 20 Mr. Mack and he is Imelda's proctor not only in the testamentary case but in all matters concerning her interest.

I was asked whether Fr. Bourgeois could have explained the contents of that deed to Mrs. Antony. Fr. Bourgeois preaches in Sinhalese and talks Sinhalese very well. I was also asked whether the fact that Imelda was marrying a stranger would not have surprised Mrs. Antony. I am not a stranger to Mrs. Antony in that sense. We are of the same community and same religion. She knew me. Although Imelda had not spoken to my son she had met him at church and at different functions. Simon Stock Antony married a stranger out of the community. He 30 married a Miss Bogalanda a Kandyan.

(Sgd.) N. SINNETAMBY,
A. D. J.

K. C.
Nadarajah
Examination

K. C. NADARAJAH affirmed. Barrister-at-law and Advocate.

I know the 2nd defendant, Mr. Oliver Zoysa. He has been a friend of mine for about 6 to 7 years. I live about half a mile away from his house. I have a telephone in my bungalow. Generally the 2nd defendant has asked me if there are any telephone messages for him, to kindly send them on to his bungalow and I have done it. On a certain occasion I received a message from St. Bridget's Convent some time in May. It was 40 a Friday, I happened to be at home for lunch. It was a message from the 1st defendant, then Miss Weerasekera, saying that she wanted to contact the 2nd defendant. I sent my driver with the message to the 2nd defendant. On a subsequent occasion I received another message from St. Bridget's Convent, it was a day or two later. My chauffeur had gone out that day and there was nobody to send this message to the 2nd

defendant. I knew it was an urgent message. Miss Weerasekera said that Fr. Bourgeois was present there and he wanted her to accompany him and she wanted to see the 2nd defendant immediately. I went in the car myself and told Mr. Oliver Zoysa about it. He wanted me to drive him to St. Bridget's Convent and I went along with him to the Convent. When we went there the 1st defendant was in the hall talking to Fr. Bourgeois and another gentleman whom I did not know by name. When I went along with Mr. Zoysa I got the impression that Fr. Bourgeois was trying to persuade her to go along with him to effect some settlement.

10 There was some talk about deeds. Mr. Zoysa also joined in the conversation. I found there was no headway being made by either party. I told Fr. Bourgeois to permit me to speak to Miss Weerasekera whom I knew. I took her on to the side verandah and I told her: "Well, if you want to go there is nobody who can stop you and if you don't want to go there is nobody who can compel you to go". I told her not to worry about Mr. Oliver Zoysa or Fr. Bourgeois, that if she wanted to go to tell us that she wanted to go. She said that she did not want to go. Then I told her she can save trouble and time if she could tell Fr. Bourgeois that she did not want to go. She came back to the hall and told Fr. Bourgeois "I

20 don't want to go". Then he was rather rude and nasty to me. I told the 1st defendant, since a case was pending it would be advisable for her to consult her proctors and get their advice before coming to any decision and I told Fr. Bourgeois to give her time to contact Mr. Mack. Then Fr. Bourgeois started an altercation with Oliver Zoysa and he went away. Some time later Oliver Zoysa asked me whether he could list me as a witness. I said "if you want me to speak to what transpired on that day at the convent I have no objection". A few days later I received a letter from Mr. Stock Antony alleging that I had made certain statements damaging to his reputation at the convent. I handed over that letter to

30 my proctor, Mr. Trevor de Saram, and asked him to reply, which I believe was sent.

Cross-examination: Apart from that occasion when I went to give a message Mr. Oliver Zoysa, a friend, and he wanted me to drive him to the convent I had no personal interest in the matter at all. I knew that there was a litigation pending and that the case had not been decided. Oliver Zoysa had told me that there was this case pending, there was this trouble, but I did not go into details. I used to see him about twice a week; I had been doing that for the last 6 years, ever since I came to know him. He told me about the engagement of his son. As a matter

40 of fact I was one of the first persons to whom he mentioned. Immediately after Sir Ernest's party, same evening or following day, he came home and took me to a side and said "I am fixing up a marriage" or "there is a proposal" or something like that. When he told me there was a proposal I said very good. He did not tell me that the girl was a very rich girl. He did not give me any details except that she was a grand-daughter of Chevalier Antony. So far as I was concerned Chevalier Antony was just a name to me. Oliver Zoysa told me afterwards that the grandmother of the 1st defendant had transferred all her property to her grand-

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—continued.

daughter. I cannot say how many days later he told this to me. Later he did tell me that there was some trouble between the uncle of this girl and the grandmother.

Q. Did he tell you that she transferred all her property to her grand-daughter? A. Yes, he did. Some time later.

I know Oliver Zoysa's son Aenian.

Q. I suppose you congratulated him when you knew the enormous amount of property he was going to get? A. No. I knew it was a bad thing for a young man to have much property. A man should fight for himself rather than depend on somebody else. 10

It did not occur to me that his bride was going to get Rs. 150,000 worth of property. I did not think that was a matter for congratulation. That was a matter to be ignored. I do not know what Oliver Zoysa felt about it. I do not know whether he was delighted.

Aenian was a student. Whenever I went to Oliver Zoysa's bungalow with my wife he used to come out and ask us to sit down and he went to fetch his mother and father. There was no question of my being in friendly conversation or other intimate conversation with him. He used to keep a distance from us, we being friends of his father.

I have never been to Dr. Van Dorts' 20

Q. When you went to the convent on that morning you were not what you call exactly an independent party? A. Yes.

A great deal was said at the convent. There was talk about the litigation pending. I believe it was round about lunch time that we went. I drove the car in and there was a sort of drawing room as one entered, past the drive. I was there. I knew this much from the telephone conversation; I knew Fr. Bourgeois was trying to take her home from the convent to her grandmother and I got the impression that she did not want to go. Oliver Zoysa told me that he had no notion at all why he was asked to come except that he told me Fr. Bourgeois was there and 30 this girl wanted to see him. I told him that she mentioned something about Fr. Bourgeois in the telephone conversation.

Q. Fr. Bourgeois wanted her to go back to her grandmother? A. All those impressions were confirmed when I went to the convent and listened to the conversation.

He said that she should go back and make friends with her grandmother.

Re-examination—Nil.

(Sgd.) N. SINNETAMBY,
A. D. J. 40

Mr. Dissanayake closes the case for the 2nd defendant reading in evidence 2 D1 to 1 D10.

(Sgd.) N. SINNETAMBY,
A. D. J.

Addresses of Counsel

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Addresses of
Counsel

Mr. Hayley moves to call evidence in rebuttal. He submits that there are new matters that have been put before Court, matters on which the plaintiff or any of her witnesses were not questioned when they were in the witness box, namely, what happened in Whist Bungalow on the 10th or 11th April and particularly on the question of the alleged fraudulent conveyance by Mrs. Antony or the cheating of Mrs. Antony into conveying the properties to Stock Antony (P8). He states that if these matters had
10 been raised earlier he would have re-examined the plaintiff or would have asked to recall the plaintiff or he would have called Stock Antony to conclude the plaintiff's case. He asks now to call evidence in rebuttal and to let him call Simon Stock Antony as most of the things which are of concern are things that took place in his presence and he can give evidence on these matters.

He cites 20 N. L. R. 481.

He states that evidence has been led of Simon Stock Antony getting his mother to sign a deed while making her believe they were papers in connection with the tea contract, of his trying to use pressure on his
20 mother, of threatening to shoot Mrs. Van Dort, all these are matters on which Stock Antony can give evidence. Although the fundamental point before Court is what happened on the 12th April in regard to the execution of the deed, the decision of Court will necessarily turn to some extent on what was done with Mrs. Antony and her properties by Stock Antony, because if all that is untrue, if she never thought she was executing a tea contract, if she thought she was executing a deed in favour of her son then it must very necessarily affect the general decision of the case.

Mr. Hayley states that he wants to examine Stock Antony on what happened in Whist Bungalow, in regard to the statements made by Imelda
30 in her evidence, particularly his conduct in regard to Imelda and Mrs. Antony over what is alleged to have happened on the 10th and 11th April, about tearing up the paper, the grandmother crying in the garden and so on.

Mr. Herat objects to evidence being led in rebuttal. He submits that it is incorrect to say that the plaintiff was not cross-examined on these points, namely, on what happened on the 10th or 11th April. He states that if he is given time he will specifically be able to refer to the passages in the plaintiff's evidence where she was cross-examined by learned senior

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counsel for the 1st defendant on these points. He says he has had no notice of this application and is not in a position to refer me to these passages.

Mr. Dissanayake too states that he has had no notice of this application and he wishes to consider his position before making his submissions.

I give Mr. Herat an opportunity of addressing me on this question on the 15th June, 1948, for which date this case has been fixed.

(Sgd.) N. SINNETAMBY,
A. D. J.

D. C. 175/ZL

15th June, 1948. 10

Appearance as on the last date.

Mr. Herat addresses me. He states that with regard to the points complained of by learned Counsel for the plaintiff learned senior Counsel who appeared for the 1st defendant had cross-examined the plaintiff and her witnesses. He draws attention to the particular passages where these matters had been put.

He refers to Mrs. Antony's evidence given on the 23rd July, 1947, in cross-examination at pages 13*, 14* 16* and 17.* Page 18* gives reference to the incident of the 10th of April. He also refers to the evidence given on the 21st October, 1947, at page 38.* 20

He refers to Mr. Rasanathan's evidence. In regard to the incidents referred to in Imelda's evidence at pages 101* and 102* Mr. Herat submits that it has been put to Mr. Rasanathan and refers to pages 57* and 58* of his evidence.

He submits that no case has been made out for calling evidence in rebuttal.

He refers to the 20 N. L. R. case and states that there, although no specific issue fraud was framed, the parties agreed that the general issue whether the will was duly executed covered all the questions of fraud as well. There were really two issues in that case. 30

In the present case, he submits, there is only one issue, that is, as to the execution of the deed on the 12th April, the burden of proving the facts necessary to get an affirmative answer on that all along being on the plaintiff.

Mr. Herat states that the question whether Stock Antony did or did not substitute a deed purporting to be a tea contract to be signed by the plaintiff is irrelevant. That was brought in in evidence to show the probability of the plaintiff knowing that she voluntarily signed a deed of gift and nothing beyond that.

He refers to pages 484 and 485 of the judgment reported in 20 N. L. R. 40

The Court may incidentally make reference to a person or his conduct but every time evidence is led on which the Court will make such a reference it does not mean that this person should be given an opportunity of

*Of the original record

hearing. It is only when that is relevant to the issues in the case that such a matter needs consideration.

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He cites Taylor on Evidence (Vol. I), p. 267, sections 384, 385 and 386. When a defendant has led evidence to shake the plaintiff's case the plaintiff cannot ask the Court to lead evidence in rebuttal to strengthen his case.

Mr. Cyril Perera addresses me.

He submits that the application made by the plaintiff's counsel is entirely misconceived. The word "rebuttal" is entirely misconceived. Evidence in rebuttal should be to rebut one of the issues in the case. The evidence proposed is not in rebuttal of any of the issues.

He refers to the allegations made against Mrs. Van Dort, namely, that she was going to get Rs. 3,000 or Rs. 6,000 by arranging a marriage for Imelda and states that he could also ask that he be permitted to call Mrs. Van Dort to rebut that evidence. This is not relevant to the case.

He states there is clear evidence that the matters raised were put to the plaintiff and her witnesses. Even if they were not put the Court will not allow to lead any evidence in rebuttal because they are not in issue. He refers to section 153 of the Evidence Ordinance. Mrs. Anthony has given certain evidence which has been denied by the defendants. Can she be allowed to call evidence which will have the effect of strengthening her evidence? Nobody raises an issue in regard to P6; no relief is claimed in respect of P6. The only question the Court is considering is on whom is the onus on these issues. The plaintiff thought they discharged the onus and the defendants gave evidence and there is nothing to rebut.

He cites Hailsham's Halsbury (Vol. 30), para. 617, page 547.

Mr. Seneviratne in reply:

He refers to certain new matters which were elicited in the course of the evidence of Imelda at pages 98* and 99.*

He cites 42 Law Times, p. 584.

Mr. Seneviratne says that the suggestion has been made by the other side that the deed of transfer in favour of the son was signed by Mrs. Antony after she had been led to believe that it was a tea contract and he wants to lead evidence in rebuttal of that.

Order on 17th June, 1948.

(Sgd.) N. SINNETAMBY,
A. D. J.

175/ZL

17th June, 1948

40

ORDER

This is an application by learned Counsel for plaintiff to call evidence in rebuttal. The grounds for the application, as I understand them, are as follows:—

Witnesses called by the defence gave evidence of certain events which occurred in Whist Bungalow on the 10th and 11th April, 1946. No

*Of the original record

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questions with regard to these events were, learned counsel for plaintiff submits, put to plaintiff's witnesses. He was taken by surprise when the evidence was led, in as much as till the defendants' case was opened no indication had been made that any such events did in fact take place. He was therefore not in a position to lead evidence, before closing his case, with regard to these matters. He now asks the Court to give him an opportunity of doing so. He also complains that he has been taken by surprise by the evidence that Mrs. Antony was induced by her son Stock Antony to sign a deed of transfer in his favour of certain properties belonging to her under the impression that she was signing a tea contract¹⁰ and not a deed of transfer. He desires to call the evidence of Simon Stock Antony on this point. He submitted further that the decision of the Court with regard to the issues raised will necessarily turn to some extent on what was done with Mrs. Antony and her property by Stock Antony because, if she never thought she was executing a tea contract but was executing a deed in favour of her son, that must necessarily affect the general decision of the case. Learned counsel for defendants objected to this application on the ground, chiefly, that it was not relevant to the issues in the case, and also that plaintiff's witnesses were cross-examined with regard to these matters. 20

The provisions in the Civil Procedure Code relating to this matter are contained in Section 163. According to this section, where there are several issues the burden of proving some of which lies on the other party or parties, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence adduced by the opposing party. Mr. Hayley submits that, although there are no specific issues with regard to the alleged conduct of the son Stock Antony concerning the transfer executed in his favour, it is so closely related to the subsequent act of Mrs. Antony in transferring properties to her grand-daughter that he should be given an opportunity of leading³⁰ evidence in rebuttal of the alleged act on the part of the son of inducing the mother, under false pretences, to sign a deed of transfer under the impression that it was some other document, possibly a tea contract. In support of his contention he cited the case reported in 20 New Law Reports at page 481. That was a case relating to the proof of a Will. The only issue framed in that case was with regard to whether the Will was duly executed by the deceased. The opposing respondents had filed affidavits alleging, *inter alia*, that the signature of the deceased were obtained by fraud and false representations made to him, viz., that he was executing a deed of gift, and instead the Will had been substituted for the⁴⁰ deceased's signature. When the issue was framed, learned Counsel for the respondents observed that he understood the issue to embrace all the defences set up by the respondents in their affidavits and no objection to this was taken by or on behalf of the petitioner. After the fact of execution was established, learned counsel for the petitioner closed his case. Learned counsel for the respondents then led evidence of this alleged fraudulent substitution. Thereafter counsel for the petitioner moved to lead evidence

in rebuttal. The Supreme Court, in allowing the application, observed that although one single issue was framed it was understood by the parties to cover all the points raised by the respondents in their affidavits, and one of those points was a distinct charge of fraud. Had the issues been more clearly framed, there would have been a separate issue on that point. For the purpose of deciding that case such an issue with regard to the fraudulent substitution would have been necessary, and very relevant. Though therefore only one issue was framed, the Supreme Court took the view that it in fact covered another issue, the burden of establishing which
 10 was on the respondents. After the respondents had closed their case the Supreme Court accordingly allowed evidence in rebuttal subject to certain restrictions being laid. In the present case the issues were framed fully to cover all the points in the plaintiff's case. The burden on those issues was entirely on the plaintiff. Nothing was suggested by the defendants in their answer, or by their counsel when the issues were framed, to indicate that the burden with regard to any relevant matter was upon the defendants. With regard to the execution of the deed P8 by which Mrs. Antony transferred her property to the son, whether that was done fraudu-
 20 lently or otherwise is not a matter directly relevant to the issues in this case. Even if it was done fraudulently, the question at issue in this case would be whether the signature to the deed P1 was obtained by undue influences, fraudulent representations, etc. If it was not done fraudu- lently, the question at issue still remains the same. The fact, therefore, that the deed P8 was executed as a result of a fraudulent act practised by the son on Mrs. Antony has no bearing on the main issue for decision in this case. The position in the 20 N. L. R. case was entirely different. I am therefore of the view that section 163 of the Civil Procedure Code does not permit evidence to be led with regard to matters concerning which learned counsel for the plaintiff desired to lead evidence in rebuttal.

30 Learned counsel also suggested that, even if plaintiff had no right to lead evidence in rebuttal, the Court has a discretion to allow a party to produce further evidence, even where such evidence could have been produced in the first instance, if it considers that it is necessary in the interests of justice to admit such evidence. Generally speaking, the Judge exercises this discretion only in cases where party plaintiff has been taken by surprise as was alleged by learned counsel who appeared for the plaintiff in this case. Counsel for the defendants drew my attention to various passages in the proceedings which clearly indicate that witnesses called by the plaintiff were questioned in cross-examination with regard to the matters
 40 on which it is now sought to lead evidence in rebuttal. Right at the forefront of the defendants' case, even when issues were being framed, it was suggested that the plaintiff was a virtual prisoner under Simon Stock Antony and that she had been forced and frightened into instituting this action. Fr. Bourgeois, under cross-examination, was questioned with regard to the state of feeling that existed between Imelda and Simon Stock Antony after the latter had come to stay in Whist Bungalow. He was also questioned with regard to the conversation he had with Mrs. Antony,

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and in the course of that it was suggested that Mrs. Antony was upset about her son's conduct towards her, and that the son had taken away large properties, a fact of which she did not know anything. Mrs. Antony herself was cross-examined with regard to her son: it was suggested to her that she was going to file action against her son with regard to the properties given to him by P8 and that she made a complaint with regard to it to Fr. Bourgeois. It was also suggested to her that she was afraid her son would take away the remaining properties and it was for that reason that she was anxious to transfer the remaining properties to her grand-daughter. She was also questioned with regard to documents which 10 were put to her for signature by Stock Antony, which she refused to sign. Proctor Rasanathan was specifically cross-examined with regard to the alleged events that occurred on the 10th and 11th of April at Whist Bungalow. He denied that such incidents took place, for instance, that his coat was torn; this is alleged to have occurred when he tried to prevent Stock Antony from dragging the plaintiff in order to get her signature to some papers. There were several other instances in which cross-examination suggested that the person behind the plaintiff is Stock Antony. I think plaintiff has had ample notice of the matters about which learned counsel complained he was taken by surprise. Cross-examination no doubt 20 did not go into details. When an incident is denied as having taken place, there seems to be no point putting the details of that incident one by one to the witness, but sufficient has been put to indicate the nature of the evidence the defendants intended to lead. Furthermore, it seems to me that this question of whether the son fraudulently induced his mother to transfer properties to him or not is not directly relevant to the issues in this case. It only helps to show the state of mind of the plaintiff at the time she is alleged to have signed the deed which is the subject matter of this case. Plaintiff had opportunities of knowing that defendants' case was that the transfer in favour of the 1st defendant was, to a large extent, 30 prompted by the fear that plaintiff's son would induce plaintiff to transfer her remaining properties to him. Plaintiff should have led any evidence available to her to disprove the existence of this alleged fear before she closed her case. To permit her now to do so would, in my view, have the effect of giving the plaintiff or Stock Antony an opportunity of confirming the evidence the plaintiff gave in chief. That definitely is not one of the purposes for which evidence in rebuttal should be permitted.

The case reported in 42 Law Times, page 584, cited by learned counsel for the plaintiff, is a case in which plaintiff was taken completely by surprise. In this particular case the element of surprise, as I have en-40 deavoured to show, does not exist. That case therefore does not support learned counsel's contention.

I accordingly disallow the application to call Simon Stock Antony to give evidence in rebuttal.

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(Sgd.) N. SINNETAMBY,
Additional District Judge.

Colombo, 17th June, 1948.

Order delivered in presence of Mr. Adv. Seneviratne and Mr. Adv. Herat and Mr. Adv. Dissanayake.

Intld. N. S.

D. C. 174/ZL

17th June, 1948.

10 Appearances as on the last date.

Mr. Hayley moves to recall Imelda. He says that Imelda in her evidence stated that on the 10th April, 1946, when she was standing outside the study room she saw Stock Antony inside the room demanding Mrs. Antony to sign something and the old lady refusing to sign anything and afterwards she saw him tearing it up. He states he has with him the actual document which was not available to him at that time to cross-examine Imelda, which the old lady actually signed at that time, namely, an application to the Registrar of Trade Marks to transfer certain trade marks of Antony & Co. to Imelda's name, Mrs. Antony's name and her
20 son's name. He says this application has been signed by Imelda and Stock Antony as well. He says his only application is to ask Imelda whether it is her signature and to put the document in. He says the particular document is dated the 10th April, 1946.

Mr. Hayley states that he is making this application under section 165 of the Civil Procedure Code and submits the Court will always allow evidence which the Court thinks necessary for the proper adjudication of the case. He states that the document was in existence at the time of the cross-examination but it was not in his possession. The issues in the case are very wide. The defendants have led all their evidence which
30 they considered relevant to the issues in the case, and therefore, it is relevant for the plaintiff to show that the episode on the 10th April was not true.

Mr. Herat objects to the application of learned counsel for the plaintiff. He says when the 1st defendant was in the box the document was in existence and its existence was known to the plaintiff or at least to her son, and in the course of the 1st defendant's long cross-examination not a question was put to her as to whether she had signed such a document. It is not a case of something being subsequently discovered. Plaintiff's negligence in giving full instructions to her lawyers has resulted in the fact
40 that these questions were not put to the 1st defendant. No doubt the Court has a general power to recall a witness during the course of trial but, he submits, it should only be as the English authority says that in very exceptional circumstances the Court should recall a witness.

He cites Phipson on Evidence (8th edn.), bottom of page 479.

He submits that in the present case this is not a special circumstance.

Mr. Dissanayake also opposes the application.

Mr. Hayley in reply says although the document was available at the time of cross-examination of the witness he was not aware of the existence of the document.

ORDER

Mr. Hayley applies now to have witness Imelda recalled in order that he may put to her a document which she is alleged to have signed on the 10th April, 1946. The document is an application for the alteration of a name under the Trade Marks Ordinance. I have perused the document which has been signed by Stock Antony, Bridget Antony and Imelda Weerasekera. It has nothing to do with the tea contract. Mr. Hayley draws attention to the fact that Imelda on that day is alleged to have seen a document being put before the plaintiff for her signature and that the plaintiff refused to sign and Imelda later on saw the document torn up and in pieces. Mr. Hayley contended that the Court will be justified in allowing his application under section 165 of the Civil Procedure Code wherein the Court is given a discretion to recall any witness when, in the course of trial, it thinks it necessary to do so in the interest of justice. 20

Mr. Herat for the 1st defendant and Mr. Dissanayake for the 2nd defendant object to the recalling of this witness. Learned counsel for the plaintiff admitted that the document was in existence when Imelda was being cross-examined but was not in his possession and he was not aware of it. Long before Imelda got into the box, however, plaintiff's witness Rasanathan was specifically questioned in cross-examination with regard to the incident that occurred on the 10th April, 1946, when Mr. Rasanathan was alleged, even by Imelda, to be present. He denied that any document was put before the plaintiff by her son which she refused to sign. Plaintiff, therefore, had ample notice of the evidence which the grand-daughter 30 intended later to give. In point of fact one of the questions is with regard to what the grand-daughter is alleged to have said when the incident took place and when Mr. Rasanathan's coat was torn. The document in question being in the possession of the plaintiff, she could very well have utilised it when Imelda was giving evidence. It cannot be said that this evidence with regard to the refusal to sign a document on the 10th April was for the first time led when Imelda was in the witness box. I might have been disposed to entertain the application if the document was in any sense vital to the case. It has nothing to do with the issues in the case. At most it will only tend to throw some discredit on Imelda Weera- 40 sekera, but it is just possible that she may have some explanation for it

I do not feel justified in these circumstances, as in my view the document is not vital to the plaintiff's case, to permit Imelda Weerasekera being recalled for this express purpose. I might have held a different

view if it was not possible for the plaintiff or for her advisers to have known of the existence of this document. She is a signatory to it and she must have known of its existence. It is not suggested that the document was not available because it had been lost. It seems to me purely an after thought. Phipson on Evidence, dealing with the right of a Judge to recall a witness at page 478 states that after a case is closed the Judge will permit it only under special circumstances. There are, as far as I can see, no special circumstances in this case which would justify my permitting the witness to be recalled.

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10 Mrs. Antony does not appear to have been specifically questioned with regard to her refusal to sign a document on the 10th April, but she certainly was generally cross-examined with regard to it. In any event the application comes at a time when the matter has been fixed for addresses of counsel, long after the plaintiff's case was closed and the 1st defendant had given evidence and her case closed and thereafter the 2nd defendant had also given evidence. In all the circumstances I do not feel justified in allowing the application under section 165 of the Civil Procedure Code, under any inherent right this Court has to recall a witness. I accordingly refuse the application.

20

(Sgd.) N. SINNETAMBY,
A. D. J.

Mr. Hayley requests me to initial the document and hand it over to him in order that its identity may be established.

(Sgd.) N. SINNETAMBY,
A. D. J.

NOTE. The pages referred to in the course of the Addresses of Counsel are those as appearing in the original record.

Mr. Herat addresses me now.

He refers to the issues raised by learned counsel for the plaintiff.

The grounds on which the deed is sought to be set aside are (1) that the 2nd defendant obtained an ascendancy over the plaintiff, (2) pressure and surprise, (3) undue influence and (4) fraudulent representation.

30 On the question of undue influence one will have to consider the matter in two aspects. The law of undue influence in Ceylon is the English Law. Under the English Law the question of undue influence will come under two headings. English Law recognises certain definite relationships between one person and another and when those definite relationships exist then the law says there is a presumption that some undue influence was exercised if one person standing in that particular relationship to the other obtained some benefit. And the burden would be on the person obtaining the gift to show that everything was fair and square. There is
40 a second class in which the question of undue influence may become relevant, that is, where the two parties—the party granting the benefit and the party receiving the benefit—do not stand in any particular relationship one can look into the circumstances of the case to find out whether undue influence has been exercised. In the second class the burden of satisfying

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the Court that there was in fact undue influence and that the undue influence exercised brought about the granting of the benefit is always on the person who seeks to set aside the transaction. He submits the present case must come under the second class and that therefore there is no burden on the 1st and 2nd defendants to discharge.

Who is this person who is alleged to have exercised this undue influence? The transaction in question is between the grandmother and grand-daughter. That is not one of the recognised classes in English equity where a presumption arises. There is the case of the parent getting a benefit from the child but there is no converse case. When the parent obtains a grant from the child then the parent will have to satisfy the Court that everything is fair and square. That is also the position under Ceylon Law.

He refers to section 111 of the Evidence Ordinance. It cannot be said in this particular case that the 1st defendant was "standing in a position of active confidence to the plaintiff," and in fact it is not her case. The undue influence alleged in the plaint is not an undue influence exercised by the 1st defendant but by somebody else.

He says the plaintiff avers that the 2nd defendant assumed an ascendancy over her. If one examines the evidence of the plaintiff herself that is totally negatived and there is nothing to show in her evidence that the 2nd defendant assumed any ascendancy over her. He refers to the following pages in the plaintiff's evidence : Pages 10, 27 and 47.

Oliver Zoysa was anxious to get his son married to the 1st defendant. The proposal was not entertained by the plaintiff. He had further hopes, so he came to see the plaintiff. That does not mean the motive there was to bring any ascendancy over the plaintiff's mind. The important point is the plaintiff was not deceived. Whether the 2nd defendant gained an ascendancy over the mind of the 1st defendant is irrelevant in this case though even on that point there is no evidence.

30

(Lunch interval.)

(Sgd.) N. SINNETAMBY,
A. D. J.

(After lunch.)

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Mr. Herat continues his address.

With regard to issue 3, he states it really amounts to this : was the deed of gift signed by the plaintiff without knowing what the contents of the deed were and because she was induced and prevailed upon to do so ?

With regard to issues 4 and 5—undue influence and fraudulent representations—can one say that there was any fraud exercised against the plaintiff? No specific facts have been pleaded or proved to indicate what the fraudulent representation was, and a very vague suggestion is made in the issue that fraudulent representations were made and plaintiff was

induced to sign the deed. According to plaintiff, she was told she had executed a deed in favour of her son, P8, conveying property worth about Rs. 7½ lakhs and she was left with property worth only Rs. 1½ lakhs. It cannot be her case that she was suddenly told her son had cheated her by getting a transfer in his favour of various properties without her knowing it, because she was perfectly aware of it before she went to Dr. Van Dorts on the 12th April that she had transferred properties to her son which had been conveyed to her by her husband subject to a *fidei commissum* in favour of the son's children. It would be nothing new to her to be told that, and she was well aware of it. In this connection Mr. Herat draws attention to the beginning of plaintiff's cross-examination by Mr. Gratiaen, page 13.

The only other representation which she can possibly complain of is with regard to the value of these properties—Rs. 7½ lakhs. These, plaintiff's counsel has shown, were subject to mortgages in favour of the State Mortgage Bank, and when the mortgage amounts were deducted from the values mentioned in P8 it came to very little. Mr. Herat states defendants do not admit anywhere that any representation was made that property transferred by the old lady to her son was worth lakhs and lakhs ; it is not the evidence led on behalf of defendants that such representation was made. But even if such a representation was made, states Mr. Herat, he can satisfy the Court that it was not a misrepresentation on which any issue of fraud could be raised. Looking at Mr. Rasanathan's evidence, he clearly shows that these properties were worth very much more. His evidence is that the Estate Duty Commissioner in assessing duty included these properties and placed a valuation of over Rs. 5 lakhs on them ; Mr. Rasanathan admits that he contested the fact of those properties being included for payment of estate duty, but he says he did not dispute the valuation of the Commissioner on those properties. In fact that valuation of Rs. 569,000 did not include two of the properties which were also covered by P8. He says he only disputed the Commissioner's right to include these properties for purposes of duty. That was the valuation placed at the time of C. S. Antony's death in 1943. Mr. Rasanathan also admits that property values in 1946 had risen by 200 per cent. The mortgage amounts come to about Rs. 184,000. Deducting that, one finds that even if a representation was made on the 12th of April to the old lady that the properties conveyed by her on P8 were worth Rs. 7½ lakhs, one cannot say that it is an exaggerated or fraudulent representation. See Rasanathan's evidence in proceedings of 22nd October at p. 54. Thereupon defendant produced the document 1 D3. Furthermore, P8 says that plaintiff is conveying the properties free of encumbrances, so that in law the son could compel the mother to discharge the bonds. In law the son would be entitled to swallow up even what the old lady got by intestate succession.

In regard to fraud too a vague allegation is made in the issue but no specific averment is there as to what the fraud is. On the question of fraud he states the burden is very much higher than in an ordinary civil

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case where Court decides on the balance of probabilities, but must be proved beyond all reasonable doubt. Mr. Herat cites 1941 AIR (PC) 93. He submits that where that issue is concerned, fraud is not borne out by the facts of the case.

The next ground is “pressure”, “surprise” and “undue influence”. What is the surprise plaintiff is complaining of? Is it that she went to Van Dorts with the idea of taking Imelda to the convent and suddenly this deed was put before her? Is it that the properties were said to be worth Rs. 7½ lakhs? That must be decided on the evidence. The other element “pressure” or “duress” really seems to be the plaintiff’s case, on 10 the evidence. Would all these responsible gentlemen combine to get this lady down to Bambalapitiya and exert duress on her to get her signature to something which she did not want to sign, something which she did not know?

Then comes undue influence of the second type. It is not the plaintiff’s case anywhere that undue influence was exercised by the 1st defendant. Where a parent donates to a child the law does not presume undue influence. The burden is all along on the plaintiff to prove if there was undue influence. See Lee’s Introduction to Roman Dutch Law, 4th Edn., p. 233; also 35 N. L. R.—*Perera vs. Tissera*, pp. 257, 282. Mr. Herat states that 20 English Law is wholly applicable in Ceylon on this point. He also quotes from Modern Equity by Hanbury, 4th Edn., at 675, 677, 678—cancellation and rectification of contracts. This is not the type of case contemplated by these authorities. One cannot say that Oliver Zoysa ever stood in any of the recognised categories of relationship which the law contemplates in regard to undue influence. He cites the case of Coomper, 1911, 1 Chancery 723 at 728. See Modder’s evidence at pp. 194, 195, 199, 210; that evidence is corroborated by both Mack and Dr. Van Dort, that the matter was fully understood by the old lady. All that is necessary is that the person advising must not suffer from the taint of the relationship which 30 the law speaks of.

Where you have one of the recognised classes where the presumption of undue influence arises, the fact that the recipient of the benefit was not the person exercising the undue influence does not matter. A mother was married twice and she induced her child by the first bed to execute a deed in favour of the child of the second bed. There the person exercising the undue influence did not receive the benefit, but she came within the category of parent and child. In that case the relationship was one of the recognised relationships. Here the person who is alleged to have exercised undue influence is Oliver Zoysa who does not stand in any of the 40 recognised relationships towards the person influenced, viz., the plaintiff.

Mr. Herat admits, however, that this does not make a difference. He cites 1900, 1 Chancery 243—*Powel vs. Powel*. He submits that plaintiff in this case has got to prove the undue influence. Her case is there was duress, fraud, she did not know what she was doing. There is no evidence of undue influence. Is it the few visits of Oliver Zoysa to the plaintiff earlier? He also cites 36 Chancery, 145—*Okart vs. Skinner*.

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(Sgd.) N. SINNETAMBY,
A. D. J.

Further hearing tomorrow, 22nd and 27th July.

10 D. C. 175/ZL

22nd July, 1948

Appearances as before.

Mr. Cyril Perera addresses Court. He makes the following submissions :—

The plaintiff in this case is an old lady who has almost lived the allotted span of life and really uninterested in the things of this world—or disinterested—if one is to believe her own words. She is clearly not interested in the properties as properties (see evidence at page 36). She does not know the value of any of these things; she does not know the value of the properties transferred to her son. Why is this old lady so 20 anxious to set aside a deed in favour of her grand-daughter? There is only one person who will benefit by it and that is the evil genius behind this action, namely, her son Simon Stock Antony. He got to himself transferred all the valuable properties which had been transferred to the mother by the father. All the evidence goes to show that it was done surreptitiously, surreptitiously in the sense that nobody else knew about this till it was later discovered. It has been said over and over again that these properties were transferred subject to the payment of mortgage debts. None of those properties were transferred to the son subject to the payment of debts because those are debts of C. S. Antony and those debts will be a 30 liability on his estate in the first instance. So Mrs. Antony has transferred all those properties to her son absolutely free of all encumbrances.

(Mr. Perera admits that the deeds of transfer to Stock Antony would be subject to the mortgages carried by his mother and that the estate will not be bound to pay the mortgage debts and the transfer to Stock Antony is not free of all encumbrances.)

There is clear evidence that the income from those properties transferred to the son is more than sufficient to pay the interest and that there is absolutely no reason why they should be transferred to someone else for the payment of the debt. They were transferred only because those 40 properties were very very valuable. Plaintiff's case is those properties are worth 7 lakhs of rupees (evidence at page 56). If the properties actually transferred to the son were worth about 7 lakhs then the statements alleged to have been made by Dr. Van Dort and Oliver Zoysa are true. If some argument is sought to be based on the footing that very

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valuable properties were not transferred to the son, that more valuable properties were transferred to the grand-daughter, that argument goes by the board because here is a transfer of most valuable properties situated in the Fort and Pettah. And there is nothing more natural for the grand-mother to do than to transfer certain properties to the grand-daughter.

Simon Stock Antony does not give evidence ; he puts his mother into the witness box and at the end he shows he wants to give evidence. That is the attitude of the person who is behind this action. That incidentally explains why the plaintiff sets out one position, learned counsel's opening a slightly different position, and the evidence an entirely different position. 10

It has also been suggested by learned counsel for the plaintiff why this impecunious medical student should have been selected as the prospective husband of plaintiff's grand-daughter who is an heiress. All students are impecunious. That does not mean to say that they do not in due time advance themselves sufficiently in life. The question was also asked why this Excise Inspector's son should have been chosen. When the real heiress was alive she was married to an Excise Inspector and why should not the grand-daughter marry an Excise Inspector's or an Excise Superintendent's son. That also explains why a host of witnesses has been listed including Sir Ernest de Silva of which the plaintiff herself 20 knew nothing. That again must have been the work of the son.

Evidence is pretty clear that the plaintiff said that her grand-daughter was being taken to a convent. So Fr. Bourgeois knew at that time that Imelda was being taken from her home. The question arises if she were being taken to a convent what about her clothes ? Nobody says that the clothes were taken from the house. They tried to get over the difficulty by suggesting that because she spent her holiday at Mrs. Van Dorts the clothes were there and they went there to take them. But no such suggestion has been made in respect of the very valuable jewellery. Admittedly Imelda's mother had very valuable jewellery that came to 30 her ; admittedly they were at Whist Bungalow ; admittedly they are found in her possession. Plaintiff herself was unable to give an explanation as to how the jewellery came into the 1st defendant's possession. This has an important bearing on the question whether the plaintiff validly executed that deed of gift and thereafter surreptitiously sent all the jewellery that was in the house to her grand-daughter. If she were not giving the properties of her own free will she would not have taken the step of giving all the jewellery that was with her.

To come to the essential part of the case, the Court's task is greatly facilitated in that a very large number of facts are admitted by both 40 parties. What are the admitted facts ?

- (1) That the Antonys and Soysas are distantly related.
- (2) That Zoysa used to visit Whist Bungalow during the lifetime of C. S. Antony.
- (3) That Imelda was virtually brought up by the grandmother and grandfather,

- (4) That Simon Stock Antony did not live in that house during the war years but was away in Gampaha and actually came to live with his father only a few weeks before the death of his father and took up residence there.
- (5) That at the time of C. S. Antony's death Imelda was the only one who knew to open the safe. It shows the measure of confidence the old gentleman had in his grand-daughter as compared with the confidence he had in his own son.
- 10 (6) That there was a proposal of marriage for Imelda about the time that she was attaining her majority.
- (7) That shortly after that Mrs. Antony fell ill and had to be nursed for two or three weeks.
- (8) That during that time Oliver Zoysa was frequently coming to Whist Bungalow—whether at the request of the plaintiff or at the request of Imelda is immaterial for the present. There is no evidence that he made any such frequent visits before January, 1946.
- 20 (9) That somewhere about that time the plaintiff transferred all the properties in her name to her son and that none of the defendants knew anything about that.
- (10) That Imelda, shortly after that illness was over, went to her step-mother's house and remained there the greater part of February and the whole of March and returned only about the 5th April.
- (11) That there was displeasure between herself and her uncle—that was one reason why she was away from the house—and that after she returned this displeasure seemed to have arisen again.
- (12) That there was an incident on the 10th April when the priest had to be sent for (evidence page 18, also page 38).
- 30 (13) That the following day Oliver Zoysa came and that a car was sent by him to St. James' Church, Mutwal, on the 12th morning.
- (14) That the plaintiff herself walked from the house to the Church with her grand-daughter on a day she would normally not have gone to church, namely, it was not a Sunday or a feast day or any special day.
- (15) That after hearing Mass that morning she spoke to the priest and told him that she was taking her grand-daughter away.
- (16) That they went on to Dr. Van Dorts, proctors came there and shortly after that Oliver Zoysa came there.
- 40 (17) That the proctors at that stage asked her whether she was going to sign the deed, whether she was willing to sign a deed in favour of her grand-daughter.
- (18) That thereafter she remained there, the proctors and Oliver Zoysa got into the car, proctors were dropped, Fr. Bourgeois was fetched and Fr. Bourgeois was taken to that house.

(19) That Fr. Bourgeois questioned her about these matters, that there-
after the proctors prepared a deed and it was signed in the
evening.

(20) That she asked to see the prospective husband of Imelda and gave
him a ring.

All these are admissions. On those admissions the Court's task is simple
because the Court has to go by the pleadings.

He cites 1906 Appeal Cases, p. 169.

The word "fraud" is not dissimilar from "undue influence". He
cites 1909 *Appeal Cases, p. 278 at 283.* 10

In the plaint not one of the averments has been proved. Plaintiff
has categorically denied para. 4 of the plaint (evidence at page 27). Neither
does she say that Oliver Zoysa was her self-constituted friend and adviser
nor does her proctor say that (p. 65 of Mr. Rasanathan's evidence).

There is no evidence at all with regard to the averments in para. 6
of the plaint.

Every word of para. 7 is contradicted by the admitted facts in the
case.

Paragraph 8 consists of half truths. That the 2nd defendant visited
on the 11th April is right; that he sent the car is right. But he took them 20
in his own car is not right. That they went to Dr. Van Dort's house is
right. "On the pretext that they were being taken to St. Bridget's
convent" is not borne out by the evidence in this case.

Regarding paragraph 9, all that is false. It is not the plaintiff's case
that the 2nd defendant informed her that a deed was ready for her signature
donating some property to the 1st defendant. Every sentence in that
paragraph is contradicted by the evidence led in this case. (see evidence
at page 41).

Regarding paragraph 10, all that again is false on the admitted facts.
On the admitted facts not only was she given the opportunity of consulta-30
tion but Fr. Bourgeois was taken there if she wanted to consult him.
According to the evidence she did not want to consult anybody at all,
not even her brothers. Why did Fr. Bourgeois tell her to consult her
brothers? Because Fr. Bourgeois knew, as everybody else, that the son
was not giving disinterested advice. Otherwise he would have told her
to consult her son. When this paragraph was put to her the plaintiff said
she did not tell anything to Oliver Zoysa.

Regarding paragraph 12, neither did she possess valuable properties
nor did she transfer the really valuable properties to her grand-daughter.

Regarding paragraph 13, this matter is not in issue and the Court will 40
not consider it.

Regarding paragraph 14, again no issue has been raised.

There is only the evidence of the plaintiff in this case. If she did not
support the averments in the plaint the Court's task is simple. The
Court will have to consider only the matters put in issue in paragraph 15.

On the admitted facts the Court has to decide whether there was undue influence at the time of the execution of the deed P1. That matter again is considered with reference to the statements in the plaint. The relevant paragraphs are 7, 8, 9 and 10. The gist of her complaint of undue influence is that Dr. Van Dort told her (at one time she says Oliver Zoysa told her) "you have transferred so much property to your son, why not do something to your grand-daughter".

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He refers to plaintiff's evidence at pp. 44, 42, 41. In general the Court will find the only allegation made against the 2nd defendant is that a statement was made that property worth 6 or 7 lakhs has been transferred by her to her son and therefore she should do something for her grand-daughter (see evidence at foot of page 36 and page 37).

Two or three weeks prior to the date on which she signed the deed she knew what she had done; so that this story of surprise and that agitated her and she got excited and decided to do something is all a drama.

Undue influence must be a species of coercion that is brought to bear on the person amounting to fraud. He cites 1906 *Appeal Cases*, p. 169 at 184.

20 He refers to Fr. Bourgeois' evidence at pages 6, 7 and 8. Fr. Bourgeois' evidence shows the purpose for which he went and conclusively disproves every statement in para, 15 of the plaint. The evidence of Mrs. Antony contradicts him on some points. The Court will accept the evidence of Fr. Bourgeois' in preference to Mrs. Antony's on these points. On other evidence she confirms what Fr. Bourgeois says, sometimes directly sometimes in a roundabout manner. See plaintiff's evidence at pp. 27, 28 (last line), 29, 32, 33 (2nd sentence), 35, 36, 37, 39, 42, 42 and 46.

There is an incident which Mr. Gratiaen brought out which has an important bearing, namely, on the 19th May, 5 weeks later, plaintiff had 30 paid Rs. 200 to the convent on behalf of her grand-daughter.

Document 2 D9 is a list of properties made out by Mr. Rasanathan in his own handwriting. 2nd defendant's case is that the plaintiff, when she heard from him that her son had got transferred in his name certain properties, went to Mr. Rasanathan and wanted a list of those properties. This question was specifically put to Mr. Rasanathan.

(Interval.)

(Sgd.) N. SINNETAMBY,
A. D. J.

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40 After lunch.

Mr. Perera continuing states that the evidence taken as a whole clearly shows that Mrs. Antony was aware she was executing a deed on the day in question. He refers to page 60 of the evidence; relevant to

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Counsel
—continued.

that passage is her admission at p. 37 that she knew two or three weeks earlier that her son had got a transfer from her of very valuable properties ; also p. 38.

With regard to what happened at Dr. Van Dort's bungalow on the 12th there is the clear evidence of the defendants and the proctors as against the extremely unsatisfactory evidence of the plaintiff, as to whether plaintiff acted voluntarily or not, and Mr. Perera asks Court to accept the former. Undue influence must be improper influence ; the evidence shows that there was no such influence.

In regard to the statement that plaintiff sent for proctor Rasanathan, 10 there is a sharp conflict of testimony between plaintiff and Mr. Rasanathan as to what happened and therefore Mr. Perera asks Court not to act on that evidence, because otherwise Court will be entitled to ask, if she did this out of her own will why should she immediately afterwards send for the proctor to find out what she had done. In this connection he refers to page 40, last few lines " then I sent my servant boy for the proctor....." and page 41 ; at page 42 " I cannot say how long after the 12th I spoke to my brother ". Plaintiff cannot make a mistake as to the first person to whom she mentioned the matter ; it was to her brother ; Mr. Perera submits that that contradicts the testimony that she sent any message 20 for Mr. Rasanathan on the 12th. The object of the cross-examination at pp. 40, 41 was to show that Mr. Rasanathan had come to Whist Bungalow after the 12th, and plaintiff had seen him but not talked about the matter. Mr. Perera refers to Mr. Gratiaen's cross-examination, last line of p. 42. At that stage Mr. Gratiaen produce the document 1 D1 to show that even at that time plaintiff had not complained to Mr. Rasanathan. These answers were given at the hearing of the 21st. Hearing was resumed on the 22nd and Mr. Perera submits many things had happened in the interval (see page 45.) The brother has dropped out of the picture, for the first time the proctor comes on the scene, see page 46. The evidence has now 30 slightly varied. At the foot of page 47 plaintiff says " the same afternoon or the following day " she sent for the proctor. This is a revised version of the earlier evidence. Mr. Perera refers to page 52. The clerk would know best as to whether he went or not with Mr. Rasanathan's message. As against this see Modder's evidence, p. 59 last line. May it not be possible that Mr. Rasanathan went to Jaffna on the 18th when the Court vacation started. Mr. Rasanathan appears to have confused the dates. To prove the alleged incident on the 16th Mr. Perera submits that plaintiff has twisted her evidence after 1 D1 was produced. A copy had been obtained from the proctor on the 13th, eventually ; an application was 40 made on the 2nd. There was no difficulty in obtaining a copy earlier if in fact plaintiff had made a complaint earlier. The clerk could have been summoned to give evidence.

All the other evidence of what took place on the 12th April shows that this was a voluntary act. If Fr. Bourgeois is to be believed, plaintiff was brought there to do something for her grand-daughter ; the sum total of

the evidence shows that her one object was that. As to whether she was excited is a matter of opinion. All the admissions in the case negative the averments in the plaint and therefore plaintiff herself answers the issues raised.

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Counsel
—continued.

(Sgd.) N. SINNETAMBY,
A. D. J.

175/ZL

27-7-48

Appearances as before.

Mr. Hayley addresses Court. He states that in these cases Courts have always refused to define undue influence and the exact relations of parties which might or might not give rise to a presumption of influence in those cases in which presumption is needed. As far as the law is concerned he cites White & Tudor Leading Cases, p. 225.

This case is complicated but not difficult to decide, and one is helped by little flashes of light, for instance (1) Mr. Nadarajah said that Oliver Zoysa came to him on the night of Sir Ernest de Silva's party where Aenian had been introduced to Imelda; shortly afterwards he went to Nadarajah and told him that the old lady was going to give Aenian all her property. Nadarajah was his confidential friend. But Oliver Zoysa says in evidence that he had no interest in this matter at all. This is a lie that overhangs all of Oliver Zoysa's evidence. (2) Van Dort said that it passed through his mind that they might offer him something. Who was to offer it, and why? (3) Imelda said that she knew Mr. Rasanathan who used to attest grannie's deeds—a very interesting remark because grannie executed no deeds at all except this deed to her son Stock.

Looking at the result of the evidence in brief, chiefly confining himself to the defendants story, what happened on the 12th April. This lady was so ignorant, according to them, that she did not know the difference between a tea contract and a notarial conveyance, so ignorant that her son could have forced her at any time to put her signature against her will on a document. It was such a person who went to a stranger's house on the 12th April. In regard to the state of her mind on that day, see Modder's evidence at pp. 198, 199; Oliver Zoysa's evidence at p. 246. She goes there without her own lawyers, Rasanathan and Jayasekera who always attended to her work; two strange lawyers were there, one of them was supposed to represent her, so little did she think he was representing her that he refused to take any responsibility in any matter and asked if she liked to have independent advice! In these circumstances Mrs. Antony, after being kept there for six hours in that atmosphere, signs a deed divesting herself of all her interests in her husband's estate. And she, according to them, got up and said now she was doing justice. It is interesting to ask what was the great injustice she had done before and what was the great justice she was doing now? The fact is that by this deed she was doing a grave injustice to her only son Stock. The old lady says he was sometimes of a bad temper but he was a good son. Just

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because her only son had a bad temper did the old lady want to cut him off from everything? The son had a wife and six children; Imelda was one child of one daughter who one can believe got her due portion by dowry when she was married to Imelda's father years before. And this grand-daughter is to have the old man's whole estate while Stock and six children are to keep only the mortgaged property. Could anything be more unjust than what she was doing on that day, unless she was deceived by others. Her so-called proctor on that occasion had never seen her before, he drafted the deed without any instructions from her and was paid Rs. 1,500 by Oliver; he was a man who has been insolvent and in the hands of Afghans, extremely in need of money; the only reasonable conclusion is that Oliver paid for the stamps too that morning. Then the old lady goes home after that, nothing left out of her husband's estate, even Whist Bungalow where she lived with the others and the Tea Stores, three-fourths of them all now vested absolutely in Imelda who is to marry Aenian against her own wishes. Oliver and the proctors took the deed away and Imelda has never seen it since. This is a short outline of the case.

Old Antony died in 1943. His widow, Imelda, Stock and his six children and wife all lived quite happily in Whist Bungalow together until Imelda's disgusting behaviour in accusing Stock's wife to his face of improper conduct. Can one wonder that Stock was very angry? No doubt from that time Stock was not quite pleased with Imelda; this was heightened when Oliver came there frequently and was always telephoning. And gradually there was worked out a certain amount of friction between uncle and niece after January, 1946. Imelda got into the box and started off with a whole stream of accusations against Stock with all the things he is supposed to have done against her since she was a child, and later on, and against her grandmother too. Mr. Hayley invites attention of Court to P18, the letter written by Imelda to Mr. Menon on the 19th December, 1945, where she gives the picture of a happy family, speaking in glowing terms of what a good uncle Stock was and what a delightful life she was leading. Not knowing that the plaintiff had this letter, in the box she said she had a "little" birthday party with about 30 guests. This throws an illuminating light on the whole of her evidence. Can one believe her when she says, when the letter was put to her, this is all a mistake, this is all untrue?

They were living happily together. In the course of administration of the estate certain documents had to be signed by Mrs. Antony and by Mrs. Antony and Imelda from time to time. Rasanathan tells about that in p. 57 of the evidence. No one has ever suggested that Stock Antony had in any way mismanaged or maladministered the estate. He had the full confidence of Mrs. Antony and doing all she expected of him—see page 27. He was administering an estate in which, until she came of age, there was a guardian *ad litem* over Imelda, one Gunasekera, to watch her interests. Into this scene suddenly burst Oliver Zoysa. He had been there earlier only about once a year, but towards the end of 1945 he con-

trived to have this proposal made for his son Aenian. Mrs. Antony objected—p. 10 of her evidence, pp. 13, 28, also Fr. Bourgeois' at p. 9, and Imelda's own conduct in getting married practically without even telling Mrs. Antony until just the last day or two when they sent that letter, P25 written on Oliver Zoysa's instructions. Imelda denied that she ever asked for any money for the wedding, but that is disproved by the letter in which she hopes to receive help. See pp. 98 and 99. Mr. Hayley asks Court to reject that evidence. Not a single word put to Mrs. Antony although she was in the box for three days. So the position as it stood in March, 1946, was this: the administration proceedings took a little time to settle. Nobody knew anything about the document P8, according to their defence; they never heard of the transfer of the mortgaged properties to Stock Antony; no one had mentioned any properties at all; the minors interests were safeguarded by the guardian *ad litem*—see page 119; Mrs. Antony never discussed the properties with Van Dort or Soysas; Stock himself did not; he never suggested to anybody to transfer any properties; the guardian *ad litem* had made no complaint. But Imelda tells us she heard the Van Dorts and Oliver Soysa discussing the question of the properties—p. 119; there was the engagement hanging 20 fire, Oliver Zoysa was casting greedy eyes and thinking what shall we do about it; so he raised a certain antipathy in the mind of plaintiff against Stock, see p. 100 "he said he did not trust my uncle". But what had he to do with it at all? See page 8b, Fr. Bourgeois' evidence: "she told me she had been warned.....people told her.....", that was the result of Oliver's and Van Dort's interference creating suspicion in the old lady's mind.

What really happened about the deed P8? See pp. 16, 17 and 37, 49, 50. Can one doubt that that is the true story about the deeds? Mr. Hayley asks Court to accept this evidence as the true account of what 30 happened. The story about a tea contract is a glib story. The son was in charge of the father's business having taken charge on his death. The father executed a power of attorney in the son's favour, P11, in 1934 and P12 shortly before he died in 1943, having full confidence in him. His affairs were well known to two responsible proctors, Rasanathan and Jaya-sekera. Even Imelda has not suggested that Stock Antony was in any way greedy or extravagant; he had never done anything derogatory to the family name or his honour; he only had a natural resentment against Imelda. But this man is supposed to have conceived the idea, for no reason, of swindling the estate. In support of the deed P1 defendants 40 put forward the proposition that Mrs. Antony was so weak that she could not prevent Stock from getting her to sign a deed she did not want to sign and came out with this tea contract story. At this time tea was completely under control. Mrs. Antony had accepted the deeds executed in her favour by her husband. Would such a lady not know what a deed was? And Mr. Rasanathan must also agree to join with Stock in putting through this false document; Rasanathan having given himself up to this swindle openly has it executed and attested a document in front of other

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people ; he might perfectly well have asked Stock to get the old lady to sign it and send it to his office where he could get it witnessed by some false witnesses. Would Mr. Rasanathan lend himself to an act of this kind ? What was the purpose of this swindle ? The whole of this story about a tea contract is a ridiculous and childish story put before the Court without thinking out clearly what it would mean.

What was the necessity for this great hurry on April 12 ? According to them there was some question of signing a document on 10th April. On the 11th April nothing at all did happen, but a lot had happened from defendant's point of view. As far as Imelda and her grandmother were concerned nothing had happened in the bungalow after the 10th. See page 249 : " at the time Mrs. Antony said this I had no idea what she was talking about....." Why was all this hurry ? There is the explanation in Oliver's own statement : Oliver and his family were going to Bandara-wela on the 13th April and he wanted to see this thing through before he went—see p. 227.

Coming to the 12th April itself, there is a very important statement by Fr. Bourgeois ; this is a guide to the evidence of Mrs. Antony—see p. 7. His credibility is not in question ; he has been 15 years in Ceylon, for 5 years parish priest of St. James' ; everyone is aware that the Catholic church takes trouble over the selection of their clergy, those whom they keep in responsible positions ; it is extremely unlikely that Fr. Bourgeois would get into the box to give untrue evidence in connection with a matter of one of his own parishioners when false evidence would naturally disparage him in the eyes of his flock and call for a reprimand from his authorities. When one reads his evidence carefully as to what took place on the 12th April if that evidence is accepted, Mr. Hayley submits, one comes to no other conclusion than that Mrs. Antony signed that deed under the influence and pressure which was brought to bear on her by these people who had misled her into thinking that all sorts of things had happened which actually did not happen, and practically deceived her—see pp. 6, 7 " the old lady was not in a state of mind to sign anything....." ; also see pp. 8, 8A and 8B.

Mr. Hayley states in his opening he had said this took place on a Sunday ; that was a mistake of his, it was actually a Friday.

Supposing it was true that Stock Antony had induced his mother to sign away the mortgaged properties thinking it was a tea contract, and supposing it was not known till Oliver and Van Dort discovered it later. Is that any excuse for using it as a lever to get her to sign away all her other properties in favour of Imelda and to tell her a lie, as Van Dort did, when he said she could not possibly upset that earlier deed and advised her not to do anything about it, not to go to Court, but instead see if you cannot do anything for this child. See pp. 146 (bottom) 147. Can one imagine whether he knew the law or not, saying that the old lady had signed away all her properties thinking it was a tea contract and adding that she could not upset it, could not attack a false deed, but advising her to do something for the grand-child ? Having heard this story the old

lady went away—p. 148. The whole origin of P1 is here. So they got Mack to advise Imelda and Modder to advise Mrs. Antony; neither of them told a single word about the tea contract—see p. 180; not a word about the old lady being swindled by her son; not a word to Modder “can you advise the old lady if she cannot get back the property which her son had swindled”; instead they use the deed P8 as a lever; the whole of the proceedings on the morning of April 12 was in some way connected with P8. If this was a *bona fide* transaction by a competent old lady giving a benefit to her grand-daughter, what was the necessity for somebody to talk about what she had done and wanting an “independent” person? They got the priest down to ginger her up. Mr. Hayley submits that Mack and Modder, Imelda and Van Dort got into pitiful contradictions in the box. Even if this story about the tea contract was true was there any excuse for other people to swindle the old lady? Mr. Hayley submits that they used the deed P8 as a lever for the whole transaction. On all the material points on which the defence relied not a word was put to Mrs. Antony.

See Imelda’s statement at p. 98. Stock Antony was always quarrelling with grannie, did not want the servants to work for her, he used to “try to beat her”. In December, 1945, Stock tried to beat her twice. He must have done it all in five days since Imelda wrote this happy story to Menon. Not a single word was put to the old lady about any of these things, not even Mrs. Antony’s alleged statements like “You killed my daughter” etc. After Mrs. Antony gave evidence that she disapproved of this wedding the girl got into the box and said the grandmother said “he is a nice boy, you will never get another man like him—see pp. 98, 99; but not a word was put to Mrs. Antony. At p. 100 “granny said it was best to consult a proctor”; this is exceedingly important, but not a word of it put to Mrs. Antony on the box. At p. 101 comes the description of Dr. Van Dort of the most important matter in the whole case—“when grannie came there the next Tuesday.....”; not a word about it put to Mrs. Antony. That was the basis of the whole defence. Van Dort takes up the tale further at p. 147. The only question they put to Mrs. Antony which had any connection at all with this matter was at p. 44.

As to what happened on April 10 at Whist Bungalow, see pp. 101, 102, about Mrs. Antony crying, Stock dragging her by the arm, etc. Not a word was put to Mrs. Antony about this.

Mr. Hayley invites attention to events on the 11th April, Mrs. Antony’s conversation with Oliver who went there in the evening, about having the deeds ready; not a word was put to Mrs. Antony about it. Then there is the extraordinary story about the trip to Pettah, not a word about that to Mrs. Antony. This goes to the root of the case because it provides the only excuse for Oliver being at the Van Dorts on the 12th. He spent the whole day there having made an entry that he was going to see the Superintendent. The old lady was going to Van Dorts to pick up Imelda’s clothes. The defence has invented this story of Mrs. Antony wanting to see Oliver in the Pettah.

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What about Rasanathan? He was cross-examined lengthily but not a single question was put to him about the execution of this document P8 which was supposed to be a fraudulent document put before Mrs. Antony in his presence calling it a tea contract. All this happened in Whist Bungalow on the 10th where Rasanathan is supposed to have been. But they only put to him this question: did you once go to Whist Bungalow with a torn coat? See page 130, 222; not a word about it to Fr. Bourgeois either.

The defence has been conducted by responsible Advocates. Mr. Hayley states he has not seen a case like this in the whole of his career¹⁰ where not a single word is put to witnesses in the box on important points relied on by one party. They wait until they hear the plaintiff's evidence, and the four of them concoct this story, Aenian and Imelda with the assistance of Oliver and Van Dort, possibly also Mrs. Van Dort and Modder. Mr. Mack's position in this case is a very difficult one. He has been very unwise to get himself mixed up in this matter and sitting down with these people day after day to go through with it. He seemed to be hopelessly befogged or muddled, for instance on his visit to the Registrar's Office; one cannot make sense of it. Again when they came from Van Dort's house to take Fr. Bourgeois back and get stamps put on the deed, he said²⁰ he stayed at home, Oliver and Modder went out and got the deed stamped; another day he said we all three went out together to get them stamped. But the Court will recognise that Mr. Mack is not concerned with these things; he is merely told Mrs. Antony had done this and that, and he acted. Mr. Hayley says he does not want to charge Mr. Mack with any part of the conspiracy, but the Court will find that he has not been wise.

Imelda says she and Aenian made up the statement, shortly before she was cross-examined—p. 107; she showed it to Oliver; they all had a consultation, Aenian, Van Dort, Messrs. Herat and Mack. There is a very serious matter in regard to Dr. Van Dort; he was given a copy of Imelda's³⁰ statement to read; it amounts to contempt of Court; there can only be one purpose in it, viz., to make sure that he would not trip, see p. 108. Van Dort's general statement at pp. 155 and 156 in which he admits having received a copy of Imelda's evidence; also p. 157.

Mr. Hayley says that if you find all witnesses on one or two points saying exactly the same thing there is a suspicion that they have decided earlier what to say. They knew from the beginning that if Fr. Bourgeois' evidence was accepted the Court could not uphold this deed; so they decide to say that Fr. Bourgeois was not telling the truth; each of them said it in turn although they contradicted each other as to what truth he⁴⁰ was not telling. Imelda said it on two occasions, p. 106, but does not specify what was untrue. See p. 133 top; Fr. Bourgeois was completely corroborated on this point by Modder. See Van Dort's evidence at p. 170, Mack's evidence at p. 188 and Oliver's at p. 245 bottom; they take care to say it even when it is not relevant to the particular point on which they are led in evidence. Everyone has been told that they must say Fr. Bourgeois was not speaking the truth.

Regarding the incident in which Mrs. Antony said she was now doing justice—see Imelda p. 104, Van Dort p. 152, Modder p. 197, Oliver p. 225 and Mack p. 177 ; this is where Mack was telling the truth and the others were not ; all of them said THAKKADI (Roguery) and Mr. Mack said AYUTHUKAMA (injustice). But none of these things were put to the plaintiff.

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There are other instances which are equally spoken to by most of them but impossible to reconcile, for instance, about Aenian being brought to Van Dort's bungalow on the 12th April, a silly story because it had
10 nothing to do with the deed which, according to them, was written to equalise the property between Imelda and Stock. Imelda told definitely, p. 133 that after all the proctors were gone Mrs. Antony wanted Aenian sent for ; Oliver himself corroborated it when he said " I think that Aenian came later ". But see pp. 152 and 167 ; " While we were awaiting the lawyers she sent for Aenian....." Imelda could not have made a mistake about it because it was one of the greatest days of her life. This is just made up. Then there is the amusing piece of evidence by Oliver when he was asked about the 10th April events : " I did not see Mrs. Antony, she was indoors, I talked to Imelda outside ". Then he suddenly
20 thought he must say something about crying, and he brought it in all on his own, " I knew she (Imelda) had been crying on the 11th. Nothing had happened at Whist Bungalow on the 11th, see p. 240. Imelda said at p. 102 that granny was in the room crying on the 10th, at Whist Bungalow.

Mr. Hayley refers to the difference in the versions of Messrs. Modder and Mack about the drafting of P1. Modder says on the morning of the 12th Mack rang him up and said, come to Milagiriya Avenue to get the final instructions. It does not tally with Mack's recollection that Van Dort said he told Modder the night before. Then again he said when he
30 got there on the morning of the 12th he asked Mrs. Antony what is it you want and she answered " I want to transfer all the properties to my grand-daughter " ; then Modder added it will take a day or two to put it through. But Mr. Mack told us that the deeds were completed, they were being typed in the office when they left at 9 a.m. for Van Dorts ; they were going in half an hour's time to fetch them. All this story about the life-interest, whether Imelda would give the old lady the life-interest or not, cannot be believed. What need was there for life-interest to be reserved when the old lady had made up her mind as to exactly what she was going to do, she knew what she was about. Again see Modder's
40 evidence at pp. 194, 195.

Mr. Hayley submits that Court will find Mrs. Antony is always quite correct on the facts.

A. D. J.

(After interval.)

Mr. Hayley continues his address.

He refers to the other contradictions. There is the story of what happened on the 12th morning regarding the document shown to Fr. Bourgeois. The deed in question was being typed at the time Fr. Bourgeois arrived. Therefore they had no deed to give him and they could not have had anything like that deed at that time.

He refers to Mack's evidence at pages 150 and 151, 188 and 190; Modder's evidence at pp. 196 and 199; Oliver Zoysa's evidence at pp. 220, 222, 223, 244. All this did not take place in the way suggested. Mrs. Antony's version was right.

On the question of veracity of witnesses, something has already been said about Fr. Bourgeois. Nothing was suggested against Mr. Rasanathan. The only attack on him in cross-examination was in regard to his having made an application to the Registrar of Lands with rather a false statement. Perhaps that seems to have been the practice. With regard to the incident of the 16th April what was attested by Mr. Rasanathan was the power of attorney in favour of Stock Antony which plaintiff has produced.

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Imelda was a very self-possessed young woman who came into the box in a very sure way. What she said about Stock's wife, about Fr. Bourgeois being a liar, does not leave a pleasant taste in the mouth. Document (P19) completely contradicts all her story and shows her completely devoid of any sort of truth. What she says about P19 is seen on page 122 of the evidence. What she was willing to tell the Government Agent in P19, the whole thing is completely untrue. This document was not put to her but to Dr. Van Dort. The evidence is at page 164. She has been egged on by Mrs. Van Dort to say all this because Stock Antony has sued Mrs. Van Dort for libel. The evidence itself which she gave is 30 contradicted in a lot of places.

It is obviously hypocrisy on the part of Dr. Van Dort talking about this girl as a poor girl. As a matter of fact the "poor girl" was an heiress to a very large sum of money. Particular reference is invited to his evidence at page 152 of this story of ring being given to Aenian that night, that Mrs. Antony took the ring from her bag and gave it to Imelda to put it on Aenian's finger. In the cross-examination of Mrs. Antony on page 20 what was suggested was that Imelda had the ring on her finger which Mrs. Antony gave to be worn by Aenian. Mrs. Antony already told Court that when Imelda removed her jewellery she also took away 40 certain things of Mrs. Antony.

Oliver Zoysa is a very interested party. The Court will not accept his evidence, particularly the sort of story he related which his own friend Mr. Nadarajah completely contradicted and also his statement about the

deed. Imelda herself has stated that Oliver Zoysa had known all about that transfer (evidence at page 250, line 4, and at page 252 middle). The Court will not accept the evidence of a person interested in the whole of this case.

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Mr. Mack made a mistake about the document P20. The Court will find that he has made a complete bungle. Refers to evidence at page 182 and 183. At p. 213 when he was asked again he had to admit that P20 (a) was correct. P22 is a certified copy of the list of all applications from the 25th March onwards. Mr. Mack's name appears only on two occasions, 10 namely 8th and 9th. What he had asked for on those dates are P23 and P24 and they do not concern with this matter at all. There is a most extraordinary thing in P20. Numbers of registers are not referred to at all. He asked to look at six different properties, 13, Modera Street—that seems to be Whist Bungalow ; 651, Blomendhal Road—this property has not been traced, it is not in P1, nor in the inventory ; Nos. 35, 36 and 129, Madampitiya. He looked at these properties presumably to find the properties which were transferred in D8. Then he asked for No. 733 and No. 741, Alutmawatta Road ; those are properties in P3 which had already been transferred to Mrs. Antony in 1939. Then he asked for No. 456 and 20 462, Madampitiya Road. No. 462 is the property which has been transferred in P5 to Mrs. Antony in 1939. What he was searching for and what he got ultimately it is not known. All this is a hopeless muddle ; all his statement is incomprehensible. Mrs. Antony's story is presumably true.

There is no truth in the story that Mrs. Antony supplied the money for the stamps. Mrs. Antony, according to Imelda, on the 11th April night having suddenly decided to execute this deed, opens the safe and takes a bundle of notes and puts it into her bag. Then the next morning nobody tells her how much is wanted but Oliver Zoysa says that Dr. 80 Van Dort's wife must have told him about Rs. 2,300 was required and he thinks she must have asked Mrs. Antony for that sum. That is impossible. Mrs. Van Dort had never seen Mrs. Antony at Whist Bungalow since she took Imelda away on the 2nd April. It is quite impossible that anybody had told Mrs. Antony of the money for the stamps. Mrs. Antony has shown that she has a bank account and all rents are paid into that account ; why should she want to have Rs. 2,500 in her safe. Apart from having her bank account is it conceivable that that old lady who is supposed not to know the difference between a tea contract and a deed could guess what money was wanted. What has Oliver got to go and see the stamps 40 for when he says he has got no interest in this matter. He had to go actually to the Stamp Office because he had the money in his pocket—his own money. He was going to pay for the stamps and that is why he went. He went along with Mack and Modder to the Stamp Office so that he may pay for the stamps. Only one question was put to Mrs. Antony about this on page 40. That is an important matter. It links him up still more closely with this deed and the whole matter which he was pushing through.

The question of Imelda's clothes is a small point. It is much more likely that what Mrs. Antony said was true, Imelda had been staying with Van Dorts for some weeks, so that she would have taken fairly all her clothes. The old lady said she got her back for the Easter festival, then she wanted to go back to the convent but nobody said she brought her clothes back from Van Dorts. Instead of this they have told a most artificial story. If Imelda had come for two or three days why should her leather bag be locked up in her grandfather's room.

Mr. Cyril Perera referred to document 2 D9 which he said was a list of properties given to Mrs. Antony by Mr. Rasanathan and that that was given to her in order to have this deed made up. The evidence about 2 D9 does not bear out this suggestion. 2 D9 is referred to at page 89 and page 93. There is one thing which shows that it could not have been given to make up this deed because Imelda says that Mrs. Antony knew nothing about the list of properties (page 119).

With regard to the argument that this property was really worth 7 lakhs and that there was no misrepresentation to Mrs. Antony that argument in itself is a hollow argument. Neither Mrs. Antony nor anybody else knew the value of those properties as they are at present or at any time. They went on the deeds according to the transfers only; the value of the properties as shown was much less.

The value of P3 is Rs. 20,000

P4 is Rs. 35,000

P5 is Rs. 25,000

making a total of Rs. 80,000.

P6 according to the deeds, they are nominal sums rather, given the value of one property as Rs. 47,000 of which Rs. 45,000 is the mortgage, and the other as Rs. 103,000 of which Rs. 100,000 is the mortgage, making a total of Rs. 150,000 the deeds and Rs. 145,000 the mortgages. But the proctor's valuation of P8 was Rs. 200,000. P2 the inventory gives all the properties which are now in P1. The value of those properties in the inventory was Rs. 282,500. So that Mrs. Antony's half share was Rs. 141,250.

P14 is a statement by the Estate Duty Department of the properties and because there was a lump sum given as extras the Department desired to bring into account for the purpose of duty only those properties which Mr. Antony had remained in possession.

Learned counsel for the defendants have said glibly that immovable property was Rs. 569,740 and that that was in 1946 and in 1947 or 1948 it will probably be near Rs. 700,000. They have not taken the trouble to analyse the attached list and see how that sum was made up.

P14 shows firstly that the value of the properties already inventorised was increased by Rs. 78,450. Then the value of the deeds P3, P4 and P5 is taken, that is, Rs. 146,625. Thereafter the value of the deeds P6 and P7 was taken, that is, Rs. 358,775. Therefore even if the Estate Duty Department intended to put the thing as high as it can, it only

raised the value from Rs. 200,000 to Rs. 358,775. The rest of this figure Rs. 569,740 has nothing to do with those properties at all, Rs. 78,450 is the increase on the general estate property. So that Imelda will now get instead of Rs. 141,000 an extra Rs. 39,000 odd making a total of Rs. 180,475 and Stock Antony gets Rs. 229,628 after deducting the mortgage debts. He gets them subject to a *fidei commissum* and she gets them free.

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With regard to the question of free from encumbrances, it is true that Mr. Rasanathan drew the deed with the formal flourish "free from encumbrances" but strictly speaking, technically, that would give an extra
10 advantage to Stock Antony when he got the deed. But the fact remains that what Mrs. Antony intended was to make Stock, as Mr. Rasanathan has said, pay the debts and these debts have never been shown in the inventory. The sum of Rs. 97,218 shown in the inventory in reference to a bond has nothing to do with this bond at all because it is balance due to the Chartered Bank of India. It was understood that Stock was to pay the debts and Stock did pay them.

There is no evidence in the case as to who paid the debt but Mr. Rasanathan spoke to the fact that Stock Antony in July, 1946 or 1947 had paid off the amounts since the transfer. There is no strict proof of
20 that. There is a statement in P9 and P10 showing the amounts paid but it does not show the person who paid. However Mrs. Antony said that Stock paid the instalments and she had to pay no more.

With regard to the pleadings, in Ceylon we are not confined to pleadings. Once the issues are framed on the material in Court the trial takes place on the issues themselves. There is some variation between the circumstances the deed was signed and the evidence adduced but there is not much variation.

Cites 13 *Law Recorder*, p. 27 ; 20 *N. L. R.* at 297.

On the question of the law there are a large number of decisions.
30 The Court will find the greatest assistance in 1 *White & Tudor (Library edition)* at p. 203 onwards

36 *Chancery Division* p. 145 or 56 *Law Journal Chancery*, p. 1052.

There are two classes of cases broadly speaking where the donors will be allowed to withdraw gifts which they have made. One is when there is any misleading, any undue influence or anything by which one is able to say this is not the free will. Then there is the other class of cases where, although there is no misleading at all from the position of parties the Court assumes there is some inherent weakness in that party.

He cites 1 *White & Tudor* p. 212 also at 214 and 215 (reference to
40 creating dissatisfaction in a person's mind), pp. 216 and 217 (reference to placing of confidence in person), p. 225 (reference to undue influence).

The old lady was brought down there in a set of circumstances which clearly shows that she was not a party exercising her own voluntary will.

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Every circumstance in the evidence in this case shows that she had pressure brought to bear on her and that she was misled. See page 227 of *White & Tudor* with regard to what the Court has to do.

Cites 1929 *Appeal Cases* p. 127 ; *White & Tudor* p. 239.

Imelda and Oliver Zoysa can be brought under the charge of undue influence. They fall under both classes of cases. On the general side there is all the evidence on facts which have been proved ; on the special side there is an old lady dealing with a grand-daughter who was the mistress of the house, given the key of the safe, dealing with everything obviously very jealous of Stock Antony when he came in as master of the house after the old gentleman's death. Up to that time she was looking after the old lady, then she turned into a wilful girl and she was no doubt in agreement when Oliver put forward the idea of getting the old lady to transfer the property to her. The old lady said that if Imelda had got married with her consent she would certainly have transferred some properties. They could not get the old lady to consent to this so they get about this way. Imelda was in the position of a confidential relationship and she herself had been under the influence of Oliver. Oliver managed to get this property to her benefit and also incidentally to his, because his own was ultimately going to control this property. 20

Putting them in that position what have they got to do?—To show the Court that this was a proper transaction. They had to show that they got independent advice. But a solicitor who comes in on such an occasion has got firstly to satisfy himself by going through the whole of the properties that this is a proper deed in which he would really advise his client to do, then he has got to advise the client and then he has got to see the client carried out his advice. If the client will not carry out his advice it is for the solicitor to retire from the matter. Mr. Modder was not advising her generally and was not concerned with what advice Fr. Bourgeois gave her. 80

Cites *Karr (5th edn.) on Fraud* pp. 156 and 157. The question of merely reading over the deed is dealt with in page 484.

15 *Beven* p. 311 also 21 *Law Journal Chancery* at pp. 482, 485, 489, 490.

(1900) 1 *Chancery* p. 243 also 69 *Law Journal Chancery* p. 164.

Imelda knew all the circumstances in which the deed was executed. She was one of the prime movers in this matter.

4 *Giffard (1865)* p. 159 at 178 or 1 *De Qex, Jones & Smith* p. 433.

Judgment on 8th September, 1948.

(Sgd.) N. SINNETAMBY,
A. D. J. 40

Judgment of the District Court

D. C. 175/ZL

8th September, 1948

JUDGMENT

In this action the plaintiff Bridget Antony seeks to set aside deed of gift No. 602 dated 12th April, 1946, executed by her in favour of the 1st defendant Mary Imelda Weerasekera. The 2nd defendant is made a party to the action on the ground that he had procured the execution of the deed by gaining an ascendancy over the minds of the 1st defendant and
10 the plaintiff and in consequence by being able to exercise undue influence over them. Plaintiff also pleads that the deed of gift is void on the ground that it was obtained by pressure and surprise and by fraudulent representations and that she was not made aware of the contents of the document she was signing when she put her signature to the deed.

The parties are related to each other. The 1st defendant is a granddaughter of the plaintiff by a deceased daughter who died when 1st defendant was still a child. 1st defendant's father, Weerasekera, who married a second time is also dead. His second wife married again one Dr. Van Dort who was himself a widower and who is a witness in this case.
20 The 2nd defendant is only a distant connection of the plaintiff; a brother of the plaintiff is married to 2nd defendant's stepsister. Though connected in this way the 2nd defendant was not, till towards the end of 1945, a frequent visitor to the house of the plaintiff.

It is alleged in the plaint that the 2nd defendant had a few months prior to the execution of the deed constituted himself a friend and adviser of the plaintiff with the object of putting through a marriage between his son and the 1st defendant. At that time the plaintiff's husband had died and plaintiff was a wealthy woman, with whom the 1st defendant was living; the evidence is that from childhood plaintiff had brought up the
30 1st defendant and treated her like a daughter. It is stated that the 2nd defendant's object in proposing the marriage was to secure the properties owned by the plaintiff for the benefit of his own son; apart from the 1st defendant the only other person who would as an intestate heir have become entitled to the plaintiff's properties on her death is her son Simon Stock Antony. With this object in view the 2nd defendant is stated to have made frequent visits to the house of the plaintiff and gained an ascendancy over the mind of the plaintiff and the 1st defendant and made them amenable to his wishes: in paragraph 4 of it is stated that in 1946 the 2nd defendant constituted himself a friend and adviser to the plaintiff
40 and in paragraph 5, that he proposed the marriage which was rejected: in paragraph 8 *et seq.* of the plaint it is pleaded that on the 11th April the 2nd defendant visited the plaintiff at Whist Bungalow where she resided and offered to take the plaintiff and the 1st defendant to St.

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Bridget's Convent on the following day, the 1st defendant having at the 2nd defendant's instigation expressed a desire to so become a boarder. On the following day instead of taking them to the Convent he took them to the house of Dr. Van Dort, where to the plaintiff's surprise the 2nd defendant informed her that a deed was ready for her signature donating some property to the 1st defendant subject to a life-interest in the plaintiff's favour and advised her that it would be in her own interest to sign the deed: the plaintiff refused but the 2nd defendant and others present induced and prevailed on her to sign the deed, the contents of which she was not made aware of.

10

It is to be noted that the plaint is exhaustive and sets out the facts on which it is alleged that there was pressure, surprise undue influence or fraudulent representation. At the trial the plaintiff, however, took up an entirely different position with regard to some at least of these matters although learned Counsel in opening the case on her behalf did so on the basis of the plaint. In her evidence the plaintiff made it quite clear that the 2nd defendant did not at any stage gain an ascendancy over her mind. In point of fact it is her case that at no time did she consult the 2nd defendant with regard to any of her actions. This is what she says:—

“I have nothing to consult him (2nd defendant) about. I have²⁰ nothing to do with him..... After my husband's death I did not find it necessary to get his advice. He gave me no advice and I did not consult him on any thing.”

There is no other evidence in the case either of any of the other witnesses called by the plaintiff or by any of the witnesses called by the defendants which indicate that the 2nd defendant had in the slightest degree gained an ascendancy over the mind of the plaintiff. In fact Mr. Rasanathan, plaintiff's Proctor, expressly states that the plaintiff at no stage told him that she was persuaded by Oliver Zoysa or that she was doing anything on his advice. It is true that during the illness of the plaintiff in December³⁰ 1946/January 1947, the 2nd defendant was of great assistance to the plaintiff and her son and used to visit the house frequently. But plaintiff is quite certain that apart from rendering assistance in the course of her illness, the 2nd defendant did not advise her with regard to any matter, nor did she have occasion to consult him. She does however say that he proposed through her brother a marriage between the 1st defendant and his son but that she rejected the proposal chiefly because his son was only a student and without employment. At a later stage she said that if he had passed out as a doctor she would have had no objection to the marriage provided at that time 1st defendant Imelda, was not married to someone⁴⁰ else.

With regard to the allegation in paragraph 8 all the evidence in the case is that the 2nd defendant did not offer to take the plaintiff to St. Bridget's Convent on the 11th April. Plaintiff herself does not say so nor is this the defendants' case. With regard to the averments in paragraph 9, while the plaintiff says in her evidence that on the 12th April she was prevailed upon to sign the deed, she says she did not know what

the contents were and she never informed her proctor that the deed was subject to a life-interest in her favour. With regard to the averments in paragraph 10, it is the defendants' case that the plaintiff did not wish to consult her brothers but at the request of the proctor who executed the deed, Fr. Bourgeois was called in to give her independent advice.

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Issues were framed in accordance with the averments in the plaint. Strictly speaking, even on the plaintiff's own evidence, these issues will have to be answered mainly against the plaintiff because, according to the evidence, even if there was any pressure, surprise or undue influence, it was not exercised as alleged in the plaint or in the circumstances set out in the plaint. I propose, however, to consider whether on the evidence led there was undue influence, pressure, surprise or fraudulent representation of any kind which would justify the setting aside of the deed of gift.

Right at the forefront of the defendants' case it was suggested both in the pleadings and in the cross-examination that the plaintiff is more or less a tool in the hands of her son Simon Stock Antony and that she had instituted this case at his instance. It would appear that some time prior to the 12th April, 1946, namely, on the 28th February, 1946, by deed (P8) the plaintiff had gifted to her son certain very valuable properties in the Fort and the Pettah. These properties had belonged to Chevalier Antony the husband of the plaintiff and he had by deeds Nos. 165 and 166 of the 26th June, 1939 (P6 and P7) sold them to the plaintiff subject to certain mortgages executed to secure the payment of Rs. 145,000. Deed (P8), however, expressly states that the transfer is free of encumbrances although in point of fact the lands were subject to the mortgages in favour of the Bank. It was contended for the defendant that Simon Stock Antony could have insisted on the mortgages being paid off by his mother. The Inventory which was filed in the testamentary case in respect of the estate of Chevalier Antony was produced. It does not show the mortgage debts as a liability of the estate. According to the plaintiff, at the time she executed this deed in favour of Simon Stock Antony she was fully aware of what she was doing and did so in order that her son may look after the properties more carefully than he would otherwise have done and so more easily pay off the mortgage debts. The case for the defendant, however, is that the plaintiff was not aware at the time that she had executed a deed transferring these valuable properties in the Fort and the Pettah to her son. The discovery of this transfer according to the defendants, was made some time in March, 1946. Despite the evidence of the plaintiff her witness Fr. Bourgeois in his evidence definitely states that the plaintiff was very excited when she was told and believed that more than half her properties had been transferred by her to her son. Fr. Bourgeois was, on the day the impugned deed was executed, taken to the house of Dr. Van Dort in order that the plaintiff may have independent advice before she executed the deed in favour of her grand-daughter. When he arrived there he says the plaintiff was very excited and told him that more than half of what belonged to her and to her grand-daughter had been taken away by her son : she feared that the son might take away

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what was left and it was his impression that she was determined to do something for her grand-daughter the 1st defendant. Even prior to that, may be the day before or two days earlier, he had visited her in her house and in the course of the conversation with her she had told him that she was upset about her son's conduct in some matter : the son had complained that the mother had refused to sign papers because of the interference of third parties. On that occasion she had told the Father that her son had taken away very large properties, that she had signed away valuable things belonging to her and she did not know what she had signed. He then advised Mrs. Antony that before she signed anything she had better 10 consult her brothers and not outsiders. It would appear that the son had sent for Fr. Bourgeois on the 10th and complained to him that his mother would not sign documents at the instance of others. It was the following day, according to Fr. Bourgeois, that at Dr. Van Dort's house the plaintiff told him that she had come to know that her son had taken away more than half her property : she was frightened that she might be asked to sign other things and was anxious to give something to the grand-daughter.

The deed in favour of the son (P8) was attested by Mr. Rasanathan, Proctor. When he was in the witness box no questions were put to him in regard to the circumstances under which this deed was attested. Per- 20 haps learned Counsel who appeared for the defendants felt it was not necessary to the defendants' case to show that the plaintiff's fears with regard to that deed were well founded. One thing, however, is clear from the evidence of Father Bourgeois, viz.: that in her own mind, on the day plaintiff executed P1 she was not aware of the nature or extent of the lands which she had gifted to her son.

The evidence in the case shows that some time prior to April, 1946, Imelda had some unpleasantness with her uncle Stock Antony. Matters came to a head at a boating party organised in January, 1946, by her uncle Stock Antony, after which Imelda communicated certain unpleasant 30 facts to Stock Antony concerning his wife. I must say in fairness to Imelda that when she gave evidence on this point she showed reluctance and it was only on the directions of the Court that she answered learned Counsel's questions and stated what the unpleasantness was over. She had brought to the notice of Simon Stock Antony the fact that his wife was misbehaving with some other person. According to her evidence she did so reluctantly at the instance of her grandmother, who, according to 1st defendant, was in mortal fear of her son. After this event the relationship between uncle and niece became very strained. Though prior to this there was unpleasantness on occasions, after this incident Imelda 40 found it almost impossible, according to her evidence, to remain in the house. That this was so is established both by the evidence of her grandmother and by the evidence of Fr. Bourgeois. The grandmother stated that in consequence she decided to send Imelda away to the convent. She had, prior to this also, on a previous occasion sent Imelda to Dr. Van Dort's with the object ultimately of securing her admission to the convent. This was in February, 1946. Mrs. Van Dort is Imelda's step-mother.

When Imelda was in Dr. Van Dort's house it would appear that questions with regard to her share of her grandfather's intestate estate were discussed by Dr. Van Dort with her. Dr. Van Dort then told her that she should have independent legal advice and representation in the testamentary case. She, however, desired to consult her grandmother before taking any steps. She says the grandmother was duly consulted and with the grandmother's approval Mr. Mack was retained on her behalf: Mrs. Antony in her evidence, however, denied that she asked the Van Dorts to retain a lawyer to investigate the position with regard to her
 10 grand-daughter. Mr. Mack was duly retained towards the end of February. The 1st defendant went with Dr. Van Dort and discussed the matter with Mr. Mack, who in due course examined the testamentary case and obtained a list of the properties and intimated to Imelda that she would be entitled to a quarter share. The list was duly shown to Imelda and she thereupon wanted to know what had happened to the other properties which belonged to her grandfather and which were not included in the list. She told her proctor that these properties were in the Fort and the Pettah. Mr. Mack undertook to investigate the matter further and find out exactly what the
 20 position was with regard to these other properties. He says that she gave him the number of these properties in the Fort and the Pettah. Imelda's evidence is that she used to go with her grandfather to these premises and she knew particulars about them. Mr. Mack then made search in the Land Registry and discovered that these properties had been transferred by Mrs. Antony to her son Stock: when Imelda was with the Van Dorts her grandmother came to see her there and Dr. Van Dort informed the grandmother that she had signed away the Fort and the Pettah properties and she appeared to be angry about it, thereafter she went and lived with her grandmother at the grandmother's request till the 12th of April.

30 According to Imelda on the 10th of April, Stock Antony and his proctor, Mr. Rasanathan, wanted her grandmother to sign certain documents, the grandmother refused. Stock Antony tried to force her into a room and in the course of these efforts it was stated that Proctor Rasanathan's coat got torn. Proctor Rasanathan, however, denied that any such incident took place. According to Imelda the papers were not signed and they were later torn up. Fr. Bourgeois was sent for by Stock Antony, and he spoke to Mrs. Antony. It was on this occasion that he told her that she should consult her brothers before signing anything if she had no confidence in her son.

40 On the 11th April, according to the evidence of Dr. Van Dort, both he and his wife tried to get into contact with Imelda but they were refused conversation with her. He thereupon contacted Oliver Zoysa and asked him to go over and see how Imelda was. On this message Oliver Zoysa went to the house of the plaintiff. This is admitted. As to what took place on that day there are several versions. According to the plaintiff Oliver Zoysa agreed to take them to the convent in his car the following day. Plaintiff says that Oliver Zoysa did come on the 11th to her house

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but did not offer to take the plaintiff and the 1st defendant to the convent. She told him that she was going to take her grand-daughter to the convent the next day. According to Imelda and Oliver Zoysa, on the other hand, on the 11th when Oliver Zoysa went there the plaintiff wanted him to take her grand-daughter away as she feared that some harm might come to the grand-daughter at the hands of her son. Oliver Zoysa said he could not do that but stated that he would be able to send a car to take the grand-daughter away from Church after Mass the next morning. It was in pursuance of this agreement that a car was actually despatched to Church on the 12th April. Of these versions, the version given by Oliver Zoysa and Imelda is certainly the more probable one. If, as plaintiff says, it was her intention to take her grand-daughter to the convent, then what was the need to do so from Church? And what was the need to go in a stranger's car? The car used was one borrowed by Oliver Zoysa from one Mr. Abeyesundera. Oliver Zoysa says that he did this instead of sending his own car in order not to arouse suspicion. If, as she says, the plaintiff was averse to associating with Oliver Zoysa it is extremely unlikely that she would have got into his car. She would have come back and with her son's knowledge and consent taken Imelda in her own car. But instead she goes surreptitiously on foot to Church; after Mass she informs the Priest of her intention and gets into a car sent there by Oliver Zoysa. These latter facts are admitted and are much more consistent with the story given by Imelda and Oliver Zoysa than with the version given by the plaintiff. Having got into the car, according to the plaintiff, they went direct to the house of Dr. Van Dort in order to take some clothes belonging to Imelda before going to the convent and there they found Oliver Zoysa. According to Imelda and Oliver Zoysa, on the other hand, from the Church they went down to Oliver Zoysa's office in the Pettah before going to Van Dorts. No questions were put to Mrs. Antony with regard to this trip to the Pettah, but the evidence of both Oliver Zoysa and Imelda is that the car on the way to Dr. Van Dort's stopped at Oliver Zoysa's office. The previous day, according to Imelda, Oliver Zoysa had been asked to inform Dr. Van Dort to have the deeds ready. The evidence of Imelda as recorded is that Oliver Zoysa "asked granny to keep the deeds ready, the deeds about which she had spoken to Dr. Van Dort". Obviously this is a mistake and an attempt was made to correct the record. The other evidence makes it clear that it was Dr. Van Dort who was to get the deeds prepared and have them ready for the plaintiff's signature. Oliver Zoysa's evidence is that he was asked by the plaintiff to inform Dr. Van Dort to have the deeds ready. Dr. Van Dort on being duly informed got in touch with the proctors who had earlier been instructed by him that plaintiff intended to transfer her properties to her grand-daughter, and a draft deed of gift was accordingly prepared. According to the evidence of Dr. Van Dort and of the proctors, preparations for the drafting of this deed were made from the 3rd of April onwards. Dr. Van Dort says that on the 3rd April he saw Mr. Mack and told him about the old lady's wish to execute a deed of gift in favour of her grand-daughter. Mr. Mack, however, said that he did not wish to act for the

old lady as he was already acting for Imelda and at Dr. Van Dort's request Mr. Mack got in touch with Mr. Vernon Modder and asked him to draw up the deed of transfer. Mr. Modder was asked to get in touch with Mr. Mack with regard to the details. The evidence of Mr. Modder is that he did so and a draft deed was prepared. For that purpose he and Mr. Mack went to the Land Registry between the 8th and 10th April and there got particulars of the lands to be transferred. This is the evidence of both Mr. Mack and Mr. Modder and I accept their evidence on this point.

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10 The deeds were accordingly drafted and a draft was ready on the 12th morning in pursuance of a message sent by Dr. Van Dort to Mr. Mack late on the 11th April. Mr. Modder, however, desired to obtain confirmation of the instructions he had received direct from his client and he was told that he should meet her on the 12th morning at Dr. Van Dort's.

On the 12th morning Mrs. Antony came to Dr. Van Dort's bungalow with her grand-daughter : Mr. Oliver Zoysa followed and later the two Proctors arrived. According to the plaintiff nothing was explained to her then. Everyone persuaded her to sign some document the effect of which she said she did not understand. It was then she says that Oliver Zoysa
20 wanted her to sign the document saying that her son had taken more than seven lakhs worth of property. She, however, said she was not concerned about the lakhs and was not prepared to sign anything. Then two other gentlemen, namely, the Proctors, came there and they all persuaded her to sign it. She was worried and did not know what to do. It was at this stage that Fr. Bourgeois came. She denied that she made any complaint against her son to Fr. Bourgeois but she admitted that she did tell him that she was told she had transferred to her son seven lakhs worth of property ; she also told him that those present wanted her to transfer the balance to her grand-daughter. Fr. Bourgeois in his evidence makes no
30 reference to the seven lakhs. He even denied that there was any such reference. Plaintiff says that she then signed the papers because she was being harassed ; nothing was explained and she did not know what the contents were. As against this evidence of Dr. Van Dort, Oliver Zoysa (who were witness to the deed) and the two Proctors is that the deed was explained to her. Even at this stage they had a draft of the deed and from this all particulars of the proposed transfer were clearly explained to her. Fr. Bourgeois was got down and he too was asked to explain, and according to the evidence of these witnesses, he did explain the contents
40 of the proposed deed of transfer to her. Fr. Bourgeois, however, in his evidence is not very clear about what happened concerning the deed. In point of fact he says at one stage that Oliver Zoysa produced a deed in favour of Simon Stock Antony executed by the plaintiff. No one else refers to this. If it was produced, then at that stage everybody would have known exactly what that deed transferred. Presumably he is making a mistake and the deed that was produced was a draft of the deed which was eventually executed on that day. Having said that she did not know what she signed, Mrs. Antony under cross-examination stated that

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she thought she was transferring that portion of her husband's estate which did not belong to her : that is to say, the share which belonged to Imelda and Stock Antony. She complained of being forced to sign but admitted that apart from all persons present asking her to sign, no threats were offered. Mr. Rasanathan, on the other hand, says that the plaintiff told him that if she did not sign they threatened to keep her there and not to take her home. Fr. Bourgeois says that all that he told the plaintiff was that she should consult her brothers before signing. He also says that she was excited and did not know anything about the properties and that she was not directly answering questions. Fr. Bourgeois, himself a loqua-¹⁰ cious Frenchman, apparently had difficulty in trying to understand what Mrs. Antony said. Even in Court she would not answer questions directly, and when reference was made either in the course of examination or cross-examination to Oliver Zoysa she certainly did get angry and excited. To judge from the evidence of Fr. Bourgeois, on the day in question she appears to have been very angry with her son and it is possible that when reference was made to him she did get excited. Fr. Bourgeois says that he does not remember that she or anyone told him that day whether she was to sign documents that day. In the same breadth he says that she wanted to do something for her grand-daughter and the others were telling²⁰ her that the best thing was to sign the deed. With regard to the wish that she expressed, to do something for Imelda, he says he told her that was her lookout but that she should consult her brothers. He denies that he saw the deed. This is correct. The deed of transfer was not ready except in draft form and it was from this draft that particulars were given with regard to the transfer that was to be effected. The two Proctors on the other hand, state that the particulars of the deed were given to Fr. Bourgeois and he explained them to the plaintiff : she understood exactly what was being done and expressed her willingness to execute the deed : they went back with Oliver Zoysa and Fr. Bourgeois : they got down at³⁰ Mr. Mack's office : Mr. Oliver Zoysa went and left Fr. Bourgeois, came back, got the stamps embossed on the deed and then proceeded to Dr. Van Dort's house in the afternoon to have the deed executed : on that occasion once again the deed was explained to Mrs. Antony and she very readily signed it. Having signed it she is alleged to have made a dramatic statement, namely, E KERUWE THAKKADIKAMA ME KERUWE YUTHUKAMA, meaning thereby that on the previous occasion she was cheated and now she had done what is right. This exclamation of hers was not put to her when she was in the witness box but all the witnesses for the defence including the two Proctors say that she said this. I find⁴⁰ it difficult to believe that this is altogether false and concocted for the purpose of this case. It should no doubt have been put to the plaintiff, but I am satisfied that she did make such an exclamation. With regard to the events that occurred in Dr. Van Dort's house before the signing of the deed I accept the evidence of the two proctors, Dr. Van Dort, Imelda and Oliver Zoysa. There are no doubt discrepancies and contradictions in their evidence on the details ; this is only to be expected but I am satisfied that on the main points they spoke the truth,

Having signed the deed, Imelda stayed behind while Mrs. Antony went back to her house. Before doing so, however, the evidence of the defence is that she requested those present to keep the transfer a secret for fear that her son might come to know of it. It would appear, according to the evidence of Dr. Van Dort, that on the 2nd of May in the presence of a friend of Imelda, namely, Sonny Fernando, he quite inadvertently revealed the fact that Mrs. Antony had transferred all her properties to her grand-daughter. Dr. Van Dort suggested that this was how information of the execution of the deed reached Stock Antony. If this was so, 10 no investigations would have been set on foot with regard to the execution of the deed P1 till that date. On this point, however, one is confronted with the evidence of Mr. Rasanathan, Proctor, to the effect that on the 16th of April he was informed by the plaintiff that she was forced to sign a document and did not know what it was. If this information had been given to Mr. Rasanathan on the 12th of April or shortly thereafter it would lend colour to the plaintiff's case that the deed executed on the 12th April was done in the circumstances in which she now alleges it was done. What is Mr. Rasanathan's evidence? He says that he had acted as Proctor for the late Mr. Antony, for Mrs. Antony and for Stock Antony. 20 In point of fact there are several deeds which have been produced in favour of Mrs. Antony by her husband which he had attested. Presumably it is to these deeds that Imelda referred when she said that Mr. Rasanathan had attested deeds for Mrs. Antony. He said in his examination-in-chief that on the 12th of April he went off to Jaffna leaving Colombo at 9 or 10 in the morning : he returned on the 16th and went to see the plaintiff at her bungalow in response to a message alleged to have been given to his servant by Mrs. Antony on the 12th April. If Mrs. Antony had so much confidence in her son it is difficult to understand why she wanted from the 12th to the 16th without informing anyone else. On the 16th April 30 she is alleged to have told Mr. Rasanathan that on the previous Friday she was taken to Dr. Van Dort's house and forced to sign some document which was not explained to her. If she was so very worried over this transaction that she found it necessary to inform her proctor on the 12th itself, then one must infer that her relations with her son were not of the best, otherwise she surely would have informed him. If it is established that on the 16th April itself she had occasion to make a complaint about the execution of the deed, it would afford strong corroborative proof of her present case. What is her evidence on the point? At first she said when giving evidence on the 21st October, 1947, that she consulted her 40 elder brother before she spoke to Mr. Rasanathan and she went on to say—

“ I cannot say exactly how long after the 12th I spoke to my brother that is the Surveyor brother who is in Court. And he was the first person to whom I spoke..... Because I did not know what it was I told him what happened. My brother must have inquired into the matter. I asked him to do so.....

Before I sent for the proctor he used to come to Whist Bungalow on business but I did not meet him. I cannot say whether he came to the bungalow before I sent word to him after the 12th.”

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When she gave this evidence she was asked whether four days after the deed was executed her proctor had met her and got her signature to a power of attorney in favour of her son. Her answer was "I do not know". Then she was asked if she had met her proctor four days after the incident she would have complained to him even if the son was present, and she said "Yes". The Court then adjourned for the following day. As the evidence stood then, therefore, she had consulted her elder brother some time after the 12th April before she spoke to Mr. Rasanathan. And before she sent for the Proctor he had come to Whist Bungalow on business but she did not meet him. On the following day when hearing was re-¹⁰sumed she admitted that the power of attorney (1 D1) was attested on the 16th of April but she could not remember whether she saw her proctor between the 12th and the 16th April. Then she gave evidence of three visits by her proctor on the 16th April although on the previous day she was not even aware that she had executed a power of attorney on that day. She says she complained to the proctor for the first time on the 16th in the presence of the brothers and the son. In re-examination she says she sent word to her proctor either on the same day or the day following that on which the deed was signed, and the proctor came a week or so after the message was sent. Mr. Rasanathan says that he left²⁰ Colombo on the 12th April and was at pains to fix the time of his departure as early as possible. In examination-in-chief he said it was 9 or 10 in the morning. Under cross-examination he was questioned with regard to whether he had executed any deeds on the 12th. He said that speaking from memory he could not say what work he did on the 12th and whatever work he did must be on record. Immediately afterwards he recalled that he had executed some deeds for a client carrying on business under the name of Sri Ambis Cafe and he said that he did not verify what work he had done since the previous cross-examination—these subsequent ques-³⁰tions were put to him on a later date. He also remembered having attested a power of attorney for an Afghan and also a warrant of attorney to confess judgment. Apart from inference he could not remember at what time he left but he was sure that it was on the 12th. At the same time he says that he made no note anywhere to refresh his memory regarding his statement that he left on the 12th. Purely from memory he was able to say so though he was really unable to remember the date on which he returned. I do not know why Mr. Rasanathan was so definite and so anxious to establish the fact that he left on the 12th. The plaintiff herself was not sure whether she sent word to him on the 12th or on the⁴⁰ 13th April. Mr. Rasanathan having come back on the 16th the power of attorney was executed on that date. Immediately information was given to him by Mrs. Antony of the alleged events of the 12th April he does not go to her son, as he admits he should have done, but goes to his own office. The explanation he gives is that he had urgent work to do in the office. From there he says he went to the Land Registry to find out what the nature of the deed that Mrs. Antony executed was.

At that stage he had only guessed that it was a deed; she had told him it was a document and she did not know of its contents. If there

was urgent work in his office he should, it seems to me, have come back and spoken to the plaintiff's son before proceeding on his investigation of the land registers. At the Land Registry no particulars were available because he says the deed had only just arrived but had not yet been entered in the books. He says, however, that he obtained information with regard to the contents of the deed from one Mr. Peiris who, however, is not a witness in this case. I do not know whether officers in the Land Registry are justified in divulging information of this nature. Even to obtain a search reasons have to be specified and forms signed. Apparently
 10 if this evidence is true, proctors are able to obtain information through clerks which otherwise would be denied them.

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Having got that information he says he came back and communicated it to his client but he did not take any action because he had not got a copy of the deed. On the 17th of April he says that he sent his clerk to Mr. Modder in order to get a copy of the deed. He says he did not know Mr. Modder personally and it was for that reason that he sent the clerk instead of writing to him. One would have imagined that in dealing with a person not known to him he would have written instead of sending an oral message. The clerk is alleged to have told him that Mr. Modder
 20 refused to give him a copy without consulting his clients. Mr. Modder denies that he ever made such a statement. In point of fact he says that on the 17th April he was not in Colombo but was in Bandarawela. The only time a request for a copy of the deed was made to him was in May and he immediately complied with that request and gave a copy, which has been produced and which was delivered to Mr. Rasanathan on the 13th of May. I reject the evidence that a request for a copy was made on the 16th. If it was so and a copy was urgently needed why was the oral request not followed up by a letter in which fees were enclosed for a certified copy. If knowledge of the execution of P1 under the circum-
 30 stances described by plaintiff was known to her proctor and her son on the 16th they would surely have pursued more vigorously their alleged attempt to get a copy from Mr. Modder. I accept Mr. Modder's evidence that he was not in Colombo on that day and that no request was made to him for any copy of the document till May. It is significant that if the existence of the deed sought to be set aside was known to Mr. Stock Antony or to Mr. Rasanathan that there should be no record of any kind whatever from which it could be established or inferred that this know-
 40 ledge was gained prior to May. In point of fact in May Mr. Rasanathan made an application for search (2 D1) on behalf of the co-owners S. S. Antony. This application is dated the 2nd of May and the folios and divisions asked for are specified as A236/131 and 236/157. The encumbrance sheet containing folio 131 of Volume 256, division A and folio 157 of Volume 256 of the same division, marked 2 D2 and 2 D3, have been produced. These relate to Whist Bungalow and the Madampitiya properties. What was the need to make this application on the 2nd May, 1946, if it was already known that the plaintiff had transferred her share of these properties to the 1st defendant? Mr. Rasanathan rejected the

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suggestion that at that stage he was trying to find out whether any deeds had been executed. He says the object was to see if Imelda had transferred the properties to a third party. He admits, however, that if on the 16th April he did not know that there had been a transfer then the search would have been useful to find out whether Mrs. Antony had transferred any property. The object he says of ascertaining whether Imelda had transferred any property was because action had been filed and *lis pendens* has been registered and he had to know whether any property had gone to third parties to make them parties to the action. In point of fact on that date action had not been filed. It was filed only 10 on the 11th of June. I do not know when *lis pendens* was registered if it was registered at all. In any event it could not have been registered till action had been instituted and till an action is on the point of being instituted there is no point in searching for possible transferees. It is significant that in his form of application he states that he makes the search as a Notary instructed by a co-owner S. S. Antony. If it was intended for the purposes of the action he should have stated that it was as Proctor instructed by the plaintiff. At this stage neither Mr. Rasanathan nor the plaintiff had a copy of the deed which the plaintiff executed in favour of the 1st defendant. That he received for the first time on the 20 13th of May and it was only thereafter that Counsel was consulted with regard to the institution of an action. What then was the hurry to find out about transferees on the 2nd of May? Is it not more probable that this application was made in order to find out, as suggested by the defence, whether the plaintiff had transferred her interest to the 1st defendant? In any event the two folios asked for (2 D2 and 2 D3) did not go beyond May, 1943, and August, 1943, respectively. These entries have been carried forward to other folios. Perhaps Mr. Rasanathan was, on this application (2 D1) able to get at the subsequent folios also. If so, it only shows that in the Land Registry, although an application form has to be 30 signed in order to search the land register, the officers are not too particular and are willing to oblige proctors and notaries with connected volumes and folios. This appears to have happened in the case of Mr. Mack also. My own belief is that neither Mr. Stock Antony nor Mr. Rasanathan was aware of the execution of this deed P1 till May and it was then that on the instructions of Stock Antony, Mr. Rasanathan started his investigations at the Land Registry. The evidence of Mr. Rasanathan and Mrs. Antony of what is alleged to have happened between 12th April and 2nd May is not corroborated by any documentary evidence or by other evidence which I can regard as unimpeachable. 40

Dr. Van Dort's evidence that it was on the 1st or 2nd of May that he inadvertently mentioned the fact of the execution of the deed to Sonny Fernando and the fact that this search was made on the 2nd of May are significant. Furthermore, if from the 16th April onwards Mrs. Antony was anxious to set aside the deed she had executed in favour of her granddaughter, it is difficult to explain her conduct on the 19th of May when admittedly she went in the company of Dr. and Mrs. Van Dort and Mr.

Oliver Zoysa with her grand-daughter to have her admitted to the convent and in fact did pay an advance of Rs. 200. There is of course, the fact that on the 16th May she executed a power of attorney in favour of her son. By that time she would have known that she had put her share of the inherited properties beyond the reach of her son. She in fact feared that her son might induce her to transfer her other properties to him. The execution, therefore, of the power of attorney on the 16th of May is not in consistent with her desire to give her grand-daughter the benefits of deed P1.

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10 The matters I have referred to above create in my mind doubts as to the accuracy of Mr. Rasanathan's evidence *re* facts and dates. He stated in the course of his evidence that when it was a question of getting a job done quickly for a client it did not matter how he got that job done. I recall the incident very vividly. It certainly did surprise me very considerably to hear a proctor make such a statement in the witness box even though it was made in reply to a leading question. Perhaps Mr. Rasanathan did not then quite realise the effect of what he said. With regard to document 2 D5 he did however admit that his attitude was indefensible. His only explanation was that despite his advice his client had instructed
20 him to write that letter. I accept, as I have already said, the evidence of Messrs. Mack and Modder with regard to the execution of deed P1. It is impossible to reconcile Mr. Rasanathan's evidence with theirs. Though they do not directly contradict each other Mr. Rasanathan's evidence, if accepted, affords strong corroboration of plaintiff's evidence which is in direct conflict with the evidence of Mr. Mack and Mr. Modder. Mr. Modder appears to have had a somewhat unfortunate career but as between Mr. Mack and Mr. Rasanathan I much prefer to act upon the evidence of the former.

Mr. Mack's evidence with regard to the execution of the deed proves
30 beyond any doubt that the plaintiff knew what she was doing when she was doing when she executed that deed. He was cross-examined with regard to the various applications he made at the Land Registry but as would appear from the documents produced by Mr. Rasanathan and the evidence given by Mr. Rasanathan himself, proctors seem to be able to obtain information with regard to lands and their registration without always having to submit the necessary forms, or without specifying correctly in the forms the necessary particulars and all the properties with regard to which they desire to effect a search. Mr. Mack is an old and respected Proctor of this Court. Even Mr. Rasanathan while giving
40 evidence stated that Mr. Mack was a senior and respected gentleman of the profession and he would not have believed him capable of getting involved in a transaction where somebody had been forced to sign a document. The cross-examination of Mr. Mack on the main facts in the case confirms the evidence he gave in chief with regard to the execution of the deed. It was only in respect of the application he made for search that there was some confusion. The document (P22) will show that between the 25th March, 1946, and the 12th April, 1946, the only applica-

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tion he made for search according to this extract relating to the properties in question is P20, but from his evidence and from the evidence of Dr. Van Dort it would appear that even prior to the 26th of March he had made search in order to ascertain whether the Fort and the Pettah properties had been dealt with by Mrs. Antony. The extract for this period was not put in evidence. According to Dr. Van Dort it was between the 19th and the 21st March that Mr. Mack reported to him about the plaintiff's transfer of the Fort and the Pettah properties to Simon Stock Antony, and even Mr. Mack stated that the third meeting, when this information was disclosed, was about the middle of March. The mere fact that no record appears to have been entered in P22 with regard to the prior search by Mr. Mack of the properties which formed the subject matter of deed P1, in my opinion is not conclusive on the question as to whether Mr. Mack did or did not search registers in order to ascertain boundaries, etc. of these properties. It is possible that with the assistance of Mr. Modder when the search was made on the application P20, other registers were also obtained and particulars of other properties ascertained. Mr. Mack seems to draw a distinction between an application to search encumbrances and an application to search the local index. Mr. Rasanathan's evidence and the documents 2 D1 and 2 D2 seem to indicate that on one application for one volume and folio connected volumes and folios can also be examined without further application forms being signed.

Considering this case purely from the evidence led on behalf of the plaintiff, if Mrs. Antony's evidence is to be accepted, there was no doubt a fraud perpetrated. She was made to sign a document without it being explained to her, without it being told her that it was a deed of transfer and under pressure of insistent demand by those present that she should sign it. Her evidence, however, is contradictory with regard to the documents she signed. She started off by saying that she signed some papers because she was being harassed and she did not know what she signed : 30 she did not know that she signed a deed. Under cross-examination she at first said she did not know that the document she signed was in favour of her grand-daughter. Subsequently she said she thought she was transferring that portion of her husband's estate which did not belong to her. On further cross-examination by learned Counsel for the 2nd defendant she said that she did not know who was to benefit from the deed and whether it was in favour of her grand-daughter. Her proctor's evidence, however, is that in her instructions to him for the purpose of drafting the plaint she told him all the facts which are averred in the plaint, this was at a later stage, namely, that it was a deed or a document that was executed 40 and that it was in favour of her grand-daughter. Her evidence on this point is to some extent contradicted by Fr. Bourgeois who says that when he went there she informed him that her son had taken away a good portion of her property and she was there to do something for her grand-daughter. In regard to the question of undue influence her evidence completely negatives the assertions and averments in the plaint, to the effect that undue influence was brought to bear upon her by Mr. Oliver Zoysa.

With regard to the 1st defendant, plaintiff's evidence is that she (the 1st defendant) at no time requested or persuaded the plaintiff to sign the deed P1.

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On the plaintiff's evidence, therefore, the only question one has to consider is whether there was fraud and whether there was any fraudulent misrepresentation which induced her to sign it. The alleged misrepresentation is not set forth in precise terms in the plaint but it was suggested in the course of her evidence that it was represented to her that her son had obtained from her properties to the value of $7\frac{1}{2}$ lakhs, that as a result she was left with property worth only $1\frac{1}{2}$ lakhs and that if she did not effect the transfer in question her son would induce her to sign these properties also away to himself. With regard to the $7\frac{1}{2}$ lakhs worth of property being signed away Fr. Bourgeois makes no reference to any statement by her to him regarding the value of the properties she is alleged to have transferred to her son. The properties transferred consist of the lands referred to in deeds Nos 165 and 166 (P6 and P7). These have been valued by the Commissioner of Estate Duty according to P14 to be Rs. 328,500. There was at the time a debt on these properties amounting to about Rs. 128,000, according to 1 D3 on mortgage bonds Nos. 702 (P9) and 745 (P10). The nett value of these properties, therefore, according to the Commissioner of Estate Duty, would be roughly about Rs. 200,000. This was the value at the time of the death of Mr. Antony. According to Mr. Rasanathan's evidence properties had appreciated in value over 200 per cent. by 1946 (that is the time when the deed P1 was executed) and the properties transferred to Stock would "not have cost much more" than 7 lakhs. Mr. Antony had died in 1943. On the basis of a 200 per cent. increase therefore, the nett value, exclusive of the outstanding debt, would have been in the region of 6 lakhs. It was stated that since the death of Mr. Antony plaintiff had paid a portion of the debts on the properties, with the result that at the time of the transfer to Stock Antony in February 1946 the nett value of the properties would have been well above 6 lakhs. One cannot, therefore, say that even if representation was made that 7 lakhs worth of property had been transferred, that representation was a false representation. Dr. Van Dort and Mr. Zoysa who are alleged to have made this representation, both say that they did not do so and I much prefer to accept their evidence on this point than that of the plaintiff. The other representation which plaintiff says was made to her was that after the transfer she was left with only $1\frac{1}{2}$ lakhs worth of property. This too is not admitted by Mr. Zoysa and Dr. Van Dort. Nor did she make any such complaint to Fr. Bourgeois. Mr. Rasanathan too does not refer to any such statement being made to him. As against Mrs. Antony's evidence with regard to the manner in which she was induced to sign the deed, there is the evidence of Mr. Rasanathan concerning his client to the following effect :—

"She was intelligent and I can say she was a careful lady. She insisted on my telling her what the contents of the documents were before she signed them,"

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It is extremely unlikely if this were so that the plaintiff would have signed the document in question without knowing what the contents of it were and without at least making an appeal to the proctors who were present to explain the deed to her.

There are two incidents which occurred on the 10th and the 11th of April referred to in the course of the evidence and to which I have already referred which learned Counsel submitted may have some bearing on this case. It was stated by Imelda that on the 10th April she saw her uncle Stock with Mr. Rasanathan in the office with some papers before them, and Stock sent for Mrs. Antony and for her : Mrs. Antony went and Stock 10 asked her to sign some papers : Mrs. Antony refused and came out : her uncle followed and dragged Mrs. Antony by the arm : she still refused and the uncle kicked up a big row : Proctor Rasanathan tried to stop him and his coat was torn : after some time Fr. Bourgeois came, and it is in evidence that he did so at the instance of Stock Antony. With regard to this Fr. Bourgeois was questioned in cross-examination. In his evidence he stated that a day or two prior to the day on which the deed was signed he had advised Mrs. Antony not to sign documents without reference to her brothers. He was obviously referring to the incident of the 10th April and he referred to that conversation he had with Mrs. Antony when Oliver 20 Zoysa came to him on the 12th April and wanted to take him to Dr. Van Dort's place. On that occasion, that is the 10th or 11th April, he says the old lady was much upset about her son's conduct in the matter. In the course of the conversation he had with her at her bungalow the son on that occasion told him that the mother had refused to sign papers even in the connection with the business because Oliver Zoysa and Dr. Van Dort were interfering in their affairs. In consequence of that statement by the son he spoke to the mother, the mother told him that she had been warned that her son had taken away large properties and that people had told her that she had signed away valuable things and that she did not 30 know what she had signed. Mrs. Antony in her evidence, when asked whether Fr. Bourgeois came to her house the day before she went to Dr. Van Dort's house (this is presumably a reference to the 10th) stated that she could not remember the Priest coming to see her in connection with the documents her son had asked her to sign ; nor could she remember refusing to sign any document which her son had before asked her to sign. When pressed further about Fr. Bourgeois' advice she at first said she could not remember but did admit that in connection with the business the son had asked her to sign some documents which she had refused to sign because she could not understand them. She also stated that her 40 son had got displeased with her and he got down the Priest. Mr. Rasanathan when specifically questioned about this incident denied all knowledge of it. It would appear, according to Imelda, that about the time Mr. Stock Antony was with these documents, Dr. Van Dort rang and she told him to send uncle Oliver as she had suspected trouble. Dr. Van Dort confirms this and states that he sent Oliver Zoysa when he came in the evening. On the following day, namely the 11th April, Imelda says that

Oliver Zoysa came there and it was then that Mrs. Antony wanted him to inform Dr. Van Dort about having the deeds ready and requested him to take Imelda away. Earlier in the day there had been some trouble over the telephone between her uncle Stock and Dr. and Mrs. Van Dort. From Dr. Van Dort's evidence it would appear that it was he who asked Oliver Zoysa to go and find out what the situation was on the 11th. Dr. Van Dort had even gone to the extent of informing the Police. With regard to this incident, Mrs. Antony, while admitting that Oliver Zoysa came there, denied that she had told him anything about taking Imelda to the
 10 convent on the following day. The conduct of Mrs. Antony on the 12th April is consistent with the alleged incident on the 10th and 11th April. If she was, as she says, intending to take her grand-daughter to the convent, as I had stated earlier it is difficult to understand why she made no preparations for it and why she got into a stranger's car from the Church after Mass instead of going back home, making the necessary preparations and going off from home in her own car. It is difficult to understand why she should have kept her intentions away from her son Stock. I am of the view that her conduct on the 12th April is consistent
 20 with the case for the defence that she did not want her son Stock to know what was happening on that day and that she went with the object of having this deed executed. Further corroboration of this is found in the evidence of Dr. Van Dort and in the evidence of Messrs. Mack and Modder that they were requested to have the deeds ready for signature on the 12th April. According to their evidence it was early in April—1st or 2nd. April—that they were first asked to put the preparation of the deed in hand. In pursuance of that request, on the 8th or the 9th April, they went to the Land Registry and obtained the particulars.

Dr. Van Dort's evidence was attacked and it was suggested (in my view an unworthy suggestion) that he had been promised or offered a
 30 bribe of Rs. 3,000 for bringing about the marriage of Imelda with Oliver Zoysa's son and for getting this deed executed. Dr. Van Dort had a high position in the Government Medical Service. He was Medical Superintendent of the Galle Hospital when he retired. After retirement he was recalled during the war and was serving under the Government at the time of these incidents. I accept his evidence and act upon it with confidence. I am satisfied that he spoke the truth. He is not in any other way interested. Apart from the few questions that were put to him no attempt was made to show that he did receive or was in expectation of receiving anything in the nature of a reward for getting this transaction
 40 put through. His evidence, as I indicated earlier, has been corroborated in most material particulars by Mr. Mack. It is highly improbable that if it was intended to force this old lady to sign a deed of this nature the proctors would have suggested that Fr. Bourgeois should be sent for. According to the defence Fr. Bourgeois explained the deed though he was not prepared to say that.

With regard to Mrs. Antony she appeared to me to be an autocratic and imperious old lady, quick to take offence and conscious of her wealth.

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Whenever the name of Oliver Zoysa was mentioned she appeared to get very angry in the witness box and in answering questions to be excitable and irrelevant. She appears to have taken of late an intense hatred to Oliver Zoysa and it was suggested that at the moment she is completely under the influence of her son. I find from her evidence and the manner in which she gave it that I can place very little or no reliance upon it. It was suggested that her deed to her son was obtained by fraudulent means. I do not think it necessary to go into that question. Learned Counsel who appeared for the defendants, though they did make reference to it, did not in the course of their addresses, press that matter or lead any 10 satisfactory evidence which was seriously intended to establish it. In point of fact it seems to me that that question is irrelevant to the present question. The point is whether, irrespective of whether it was a fraudulent transaction or not, the plaintiff at the time she spoke to Fr. Bourgeois and earlier was under the impression that her son would take away her other properties also unless she made a settlement of it on her granddaughter. It is possible that having effected the transfer in favour of her son willingly and knowingly without fully appreciating her action she later took up the position that it was done without her knowledge just as her present case now is that she did not execute deed of gift P1 with a full 20 knowledge of what she was doing. It is also possible that though she executed the deed of gift in favour of her son ; being persuaded to do so by him, knowingly and willingly she feared that her son would induce her to transfer her other properties also to him. It is in evidence that to some extent she feared and distrusted her son. In the witness box it was at times impossible to make her answer questions relevantly and to the point. At the slightest provocation she would flare up making all kinds of accusations particularly against Oliver Zoysa and it was with the exercise of great patience that learned Counsel were able to examine her. The result was that she was kept in the witness box for a longer period 30 than would otherwise have been necessary.

I will now refer to the evidence of Imelda and Oliver Zoysa. The former is a young lady of about 24 years of age, recently married, described by learned Counsel for the plaintiff as self-possessed and sure of herself. She may be a sophisticated young woman but I do not think she can in any sense be described as crafty or cunning. She gave her evidence in a convincing manner and was subject to a lengthy and strenuous cross-examination. The more I saw and heard her the more I felt convinced that on the main facts she spoke the truth. It may be on many matters with regard to which she gave evidence, questions were not put to the 40 plaintiff, but I do not think that, judging from the evidence and from her demeanour in the box, she would have been a willing party to any act which would have had the effect of bringing sorrow or harm to her grandmother. In point of fact it would appear that she has up to date not received anything, not only in respect of properties that were transferred to her on P1, but even in respect of properties which she was entitled to in her own right from her father. Her evidence is that she was willing, even in the

absence of an express reservation of life-interest in favour of the grandmother, to let the grandmother enjoy that life-interest. I do believe that this is her intention and that she will give effect to it. In point of fact the evidence of the defence is that when it was suggested to the plaintiff that life-interest should be reserved in her she said that she did not want any such reservation for the fear that her son might get at that also. Plaintiff expressed the view that her grand-daughter was completely reliable and would allow her to enjoy all the income from the properties transferred during her life. The only point on which Imelda was found
10 to be inaccurate was with regard to her 21st birthday party. In the course of her evidence she said that she had invited about 30 guests but in her letter to Mr. Menon who was at one time her grandfather's manager, she had said that there were as many as 200 guests. That letter (P18) written before the boating party incident, no doubt does create an impression that the people at Whist Bungalow were getting on happily with each other. She at first said that her earlier evidence was a mistake but later explained this letter by stating that she did not wish published to the whole world the state of relations that existed between herself and her uncle. One can, of course, understand a young lady exaggerating the importance of
20 her twenty-first birthday celebrations. The mere fact that in this letter she had not been strictly accurate would not justify the rejection of her evidence on the other and more material points.

With regard to Oliver Zoysa I do agree with learned Counsel for the plaintiff that it is difficult to accept his evidence to the effect that he knew nothing about the proposed gift till he heard of it for the first time on the 11th May from Dr. Van Dort. Imelda in point of fact in the course of her evidence referred to some discussions between Dr. Van Dort and Oliver Zoysa and others regarding the property at an earlier date. Rs. 2,500 was required for the deed expenses and Mrs. Antony had it with her when
30 the deed was signed. Unless some information was given to her by Oliver Zoysa it is difficult to understand why she had that sum of money with her. I accept the evidence that it was she who provided the money for the stamps but I think that Oliver Zoysa knew more about the execution of the deed than he in the witness box pretended to know. It is possible, as suggested by learned Counsel for the plaintiff, that Oliver Zoysa knew on the 11th April and much earlier that the deed was going to be executed. It may be that it was he who intimated to Mrs. Antony that Rs. 2,500 will be required for stamps. On other matters his evidence is corroborated by the other witnesses and I see no reason to reject it. Learned Counsel
40 for the plaintiff did draw attention to minor contradictions in the evidence of the various witnesses for the defence. This is only to be expected when they are examined in detail with regard to events that occurred a few years earlier, but these contradictions do not justify the Court in rejecting their evidence altogether.

On the law the case for the plaintiff on the pleadings is that there was undue influence brought to bear upon Mrs. Antony by Mr. Oliver Zoysa. Learned Counsel suggested that undue influence was exerted not only by

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Oliver Zoysa but also by Imelda. It was suggested that the relationship between Imelda and Mrs. Antony was such that they came under that category of cases where the Court, from the position of parties, assumes that there has been undue influence and the burden of establishing that the party executing the deed had independent advice or knew what she was doing is upon the party alleged to be exercising that undue influence. Under the English law that class of cases is restricted to certain well recognised relationships such as guardian and ward, solicitor and client, husband and wife, parent and child, etc. The principle seems to be not merely that a fiduciary relationship should exist but that the relationship 10 should be of such a kind as to justify the presumption of undue influence from the mere relationship of parties. One of such recognised relationship is that of parent and child. When a child makes a gift to his father the burden would be on the father to show that it was not the result of any undue influence on his part and that the child had independent advice. So too in the case of a gift by a client to his solicitor. But where a parent makes a gift to a child the position is not the same unless there is evidence to show that the parent is of a weak frame of mind and completely under the influence of the child. There is no need for the child to take upon himself the burden of proving that the father had independent advice. 20 In this case there is no evidence at all to show that Mrs. Antony was under the influence of Imelda. In point of fact the pleadings seem to suggest that an ascendancy over the mind of the plaintiff was exercised and gained only by Oliver Zoysa. Both plaintiff's evidence and the evidence of the defendants completely negatives the gaining of any such ascendancy on the part of either Oliver Zoysa or of Imelda. The second category of cases where the burden is upon the person who alleges it to establish the undue influence. In this case there is absolutely no evidence to justify any such finding. The deed of gift did not leave Mrs. Antony without any other property. According to her own evidence she had, quite apart 30 from this deed of gift, other property from which she derived an income sufficient for her requirements. That is one of the grounds the Court has to consider in deciding the question of whether a deed of gift should be set aside on the ground of undue influence. If, of course, Oliver Zoysa had exercised some sort of undue influence over Mrs. Antony the fact that he personally derived no benefit thereby but that Imelda derived the benefit would not be a ground for refusing to set aside the deed.

It has been held that it is competent for the Court to take away from third persons the benefit they have derived upon the fraud, imposition or undue influence of others. "Let the hand receiving it be ever so chaste, 40 yet, if it comes through a polluted channel, the obligation of restitution will follow it" (*Bridgman vs. Green*, referred to in *White & Tudor's Leading Cases*, Vol. I, pp. 212, 213). On the question of fraud, on the evidence there is nothing established to justify such an inference. It has been held, where fraud is concerned proof should be of a very high standard, higher than in an ordinary civil case where the Court decides on the balance of probabilities (1941 A. I. R., p. 93). In this particular case, even if the burden was on the defendants to show that there was no undue

influence, I think the evidence on the facts show that some independent advice was given to the plaintiff. There is also the fact that Fr. Bourgeois was called to give that independent advice. What is it that constitutes independent advice? It is not necessary that the party advised should be told whether she should do or should not do a thing. All that is required is that she should be made to understand the nature and consequences of the act which she does. (In *re* Coomber (1911) 1 Chancery at p. 729). In this case, according to the evidence of the defendants' witnesses, Fr. Bourgeois did explain to the plaintiff exactly what she was going to do though Fr. Bourgeois himself does not state that he explained the contents of the draft deed; she was going to transfer certain properties to her grand-daughter. Viewed in that light, although Fr. Bourgeois advised her to consult her brothers, she did have independent advice sufficient to make her realise what she was doing. Apart from Fr. Bourgeois the Proctors too advised her in this matter. I am satisfied on the evidence that she knew exactly what she did on the 12th April, 1946. In my opinion the facts of this case do not justify the inference either of undue influence or of surprise or of any pressure being brought to bear upon the plaintiff.

No. 10
Judgment of
the District
Court
8-9-48
—continued.

20 I answer the issues framed as follows :—

- (1) No.
- (2) No.
- (3) No.
- (4) No.
- (5) No.
- (6) & (7) Not necessary to answer in view of my findings on the other issues.

I accordingly dismiss plaintiff's action with costs.

(Sgd.) N. SINNETAMBY,
Addl. District Judge.

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Pronounced in open Court in the presence of :

Mr. M. D. Goonetilleke, Proctor for plaintiff.

Mr. T. H. Jansz, Proctor for 1st defendant who also takes notice on behalf of Mr. M. N. Salahudeen, Proctor for 2nd defendant.

(Sgd.) N. SINNETAMBY,
Addl. District Judge.

8th September, 1948.

No. 11

Decree of the District Court

DECREE

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It is ordered and decreed that the plaintiff's action be and the same is hereby dismissed with costs.

(Sgd.) N. SINNETAMBY,
Additional District Judge.

The 8th day of September, 1948.

No. 11
Decree
of the
District
Court
8-9-48

No. 12
Petition of
Appeal
to the
Supreme
Court
16-9-48

No. 12

Petition of Appeal to the Supreme Court

D. C. Colombo No. 175/ZL.

MRS. BRIDGET ANTONY of " Whist Bungalow ", Modera
Street, Mutwal, Colombo *Plaintiff*

Vs.

- 1. MISS IMELDA WEERASEKERA, and
- 2. OLIVER GILES DE ZOYSA, both of Park Avenue,
Borella, Colombo*Defendants*

And

10

MRS. BRIDGET ANTONY of " Whist Bungalow ", Modera
Street, Mutwal, Colombo*Plaintiff-Appellant*

Vs.

- 1. MISS IMELDA WEERASEKERA, and
- 2. OLIVER GILES DE ZOYSA, both of Park Avenue,
Borella, Colombo*Defendants-Respondents.*

On this 16th day of September, 1948.

The Petition of Appeal of the abovenamed appellant appearing by her Proctor, M. D. Gunatilleke, sheweth as follows :—

1. The plaintiff-appellant instituted this action to set aside the Deed 20 of Gift No. 602 dated 12th day of April, 1946, executed by her in favour of the first defendant-respondent on the ground of fraudulent representation, undue influence and want of proper execution and the second defendant-respondent was made a party on the ground that he had unduly influenced the plaintiff-appellant to execute the said deed.

2. After the trial, the learned District Judge dismissed the plaintiff-appellant's action with costs and being aggrieved by the said judgment and order the plaintiff-appellant begs to appeal to Your Lordship's Court on the following among other grounds that may be urged by Counsel in respect of this appeal :—

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(1) The said judgment is contrary to Law and against the weight of evidence adduced in this case.

(2) The learned District Judge has not given due weight or consideration to the evidence of a Roman Catholic Priest, the Rev. Father Bourgeois, who was not only a disinterested witness but who had also a full knowledge of all the circumstances of this case, and his evidence should have been

accepted without any doubts or hesitation. The learned Judge has not given any consideration to the definite evidence of Father Bourgeois when he stated on oath that the plaintiff-appellant was so excited that she did not know what was taking place and a deed signed in that state of mind was invalid. Father Bourgeois' evidence was that he repeated this to the first defendant-respondent who was willing to make peace with the plaintiff appellant but the learned Judge has not even referred to these matters in his judgment.

No. 12
Petition of
Appeal
to the
Supreme
Court
16-9-48
—continued.

(3) The learned District Judge has not made any allowance for the 10 old age and infirmities of the plaintiff-appellant who was ill for a long period of time before she gave evidence, while he makes great allowance in respect of the youth of the first defendant-respondent who definitely contradicted herself on several matters and when confronted with documentary evidence that gave the lie to her statements the learned Judge overlooks the same as mistakes.

(4) A great many facts were elicited from the witnesses for the defence as to what the plaintiff-appellant said and did on the 10th and 11th days of April, 1946, but on which no cross-examination was made, while the plaintiff-appellant was in the witness box, and several new facts were 20 brought out against the plaintiff-appellant's son who offered to give evidence in rebuttal at the end of the defendant-respondent's case, but this application was refused by the learned Judge.

(5) Notwithstanding the refusal by the learned Judge to allow evidence in rebuttal he has accepted the new facts and based his judgment on matters which if an opportunity for rebuttal was given would have been conclusively established to be false and fabricated. The learned Judge was wrong in refusing to allow evidence in rebuttal and in particular in refusing to allow an opportunity for proof of the document signed by the plaintiff-appellant and the first defendant-respondent on the 10th April, 30 1946, which document would have disproved completely the first defendant respondent's story of the events which took place on that day.

(6) The learned Judge has drawn certain conclusions from certain statements alleged to have been made by witnesses where the time and place when such statements were made, were definitely on occasions other than those referred to by the Judge. For example the learned Judge puts into the mouth of Father Bourgeois certain statements purporting to have been made on the occasion of his visit to Whist Bungalow about the 10th or 11th April, 1946, whereas the said statement refers only to a later occasion at the house of Dr. Van Dort on which the Deed sought 40 to be set aside was going to be drawn.

(7) The evidence of Proctor K. Rasanathan should have been accepted in preference to that of the other two Proctors, Messrs. Mack and Modder, both of whom contradicted each other on important points relating to the drafting and execution of the deed in question and the document P22 gives the lie to their statements that they visited the Registrar-General's

Office to examine registers and obtain particulars of the description of the properties involved but the learned Judge holds that in spite of the absence of applications to search as disclosed in P22 the officers of the Registrar-General's Office may have obliged Proctors to obtain connected folios which were not applied for by a duly filled up application to the Registrar.

(8) In regard to the draft deed which Proctor Modder says was not ready and for which he wanted a few days to prepare the learned Judge holds that this draft was actually produced and seen by Father Bourgeois who definitely says that the deed which was shown to him that day was only a copy of the original deed executed by the plaintiff-appellant in favour of her son two months before the deed in question was arranged for. The learned Judge presumes that Father Bourgeois made a mistake, and even if it were so holds the evidence of Mr. Modder supports Father Bourgeois and makes it impossible for the draft of the new deed to be ready for perusal on the morning of the 12th April, 1946.

(9) In regard to the facts concerning the departure of Proctor Rasanathan to Jaffna on the 12th April and his return to Colombo on the 16th April, 1946, apart from the oral evidence of Proctor Rasanathan himself, there are the documents actually attested by him on these dates and the fact that a Power of Attorney signed by the plaintiff-appellant in favour of her son on the 16th April, definitely fixes a meeting between the plaintiff-appellant and Proctor Rasanathan on that date, which, according to the evidence of the plaintiff-appellant, was the first one at which it was possible to communicate to him her fears in respect of the document executed on the 12th April, 1946.

(10) The learned Judge holds that if the plaintiff-appellant's evidence is accepted there is no doubt a fraud was perpetrated as she was made to sign a deed without it being explained to her, and under pressure of insistent demand by those present that she should sign it. The learned Judge has misdirected himself in not accepting all the cumulative evidence that went to support her fears and was calculated to alarm and excite her and her excitement has been testified to not only by Father Bourgeois but also by one of the witnesses for the defence, viz.: Proctor Modder.

(11) The learned Judge has confused the documents which the plaintiff-appellant is alleged to have refused to sign on the 10th or 11th April, 1946, with the deeds actually executed in February, 1946, which were duly explained to her by the attesting Notary and by which she transferred the properties that were mortgaged to the State Mortgage Bank in favour of her son.

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(12) The learned Judge has not accepted the evidence of the 2nd defendant, where he stated that he was never aware of the proposed gift in favour of the first defendant-respondent who was marrying his son, but the learned Judge has chosen to accept his other evidence on material points notwithstanding the fact that other witnesses for the defence contradicted him on those points.

(13) The learned Judge has not carefully analysed or weighed all the evidence properly but has based his judgment on probabilities and when he rejects the evidence of witnesses for the plaintiff-appellant his grounds for doing so are only because he prefers to believe the evidence called for the defence and not because there is valid reason for rejecting the evidence called by the plaintiff-appellant.

No. 12
Petition of
Appeal
to the
Supreme
Court
16-9-48
—continued.

(14) The learned Judge has misdirected himself in respect of the law and has not considered the position of the plaintiff-appellant who is of the age of over 70 years, and infirm, and the deed sought to be set aside was drafted and attested by a strange Notary whom she had never seen before and the circumstances surrounding the whole transaction were suspicious and stranger and the 2nd defendant-respondent was out to enrich his own son who was made to marry the first respondent against the wishes of the plaintiff-appellant and her relatives.

(15) The learned District Judge is in error when he says that the plaintiff-appellant had independant advice regarding the execution of the impugned deed, while all the evidence in the case points to the fact that the Notary who advised and drafted the deed as well as the Notary who attested the same were strangers to the plaintiff-appellant and so far from advising her independently on the implications of the deed of gift had never even seen them before. Every circumstance in the evidence in this case shows that the plaintiff-appellant was misled and pressure brought to bear on her to such an extent that she was not able to exercise her free will.

Wherefore the plaintiff-appellant prays that Your Lordships' Court may be pleased to set aside the judgment of the learned District Judge and order that the Deed of Gift No. 602 dated 12th April, 1946, be set aside with costs in both Courts, and for such further and other relief in the premises as to Your Lordships' Court may seem meet.

(Sgd.) M. D. GOONETILLEKE,
Proctor for Plaintiff-Appellant.

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No. 13

Judgment of the Supreme Court

S. C. 534

D. C. (F) Colombo 175/Z

Present : JAYETILEKE; C.J., and DIAS, S.P.J.

Counsel : N. E. WEERASOORIYA, K.C., with CHRISTIE SENEVI-RATNE and M. M. KUMARAKULASINGHAM, for the plaintiff-appellant.

H. V. PERERA, K.C., with G. L. L. DE SILVA and J. ST. GEORGE, for the 1st defendant-respondent.

40

CYRIL E. S. PERERA with T. B. DISSANAYAKE and VERNON WIJETUNGE, for the 2nd defendant-respondent.

Argued on : 6th, 7th, 8th and 11th September, 1950

Decided on : 11th September, 1950

No. 13
Judgment
of the
Supreme
Court
11-9-50

No. 18
Judgment
of the
Supreme
Court
11-9-50
—continued.

JAYETILEKE, C.J.

We do not think it is necessary to call upon Counsel for the respondent. There are no merits in this appeal. We would dismiss it with costs.

(Sgd.) E. G. P. JAYETILEKE,
Chief Justice.

DIAS, S.P.J.

I agree.

(Sgd.) R. F. DIAS,
Senior Puisne Justice.

No. 14
Decree
of the
Supreme
Court
11-9-50

No. 14

Decree of the Supreme Court

**GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN,
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, KING,
DEFENDER OF THE FAITH.**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D. C. (F) 534/M/1949.

**Mrs. BRIDGET ANTONY of " Whist Bungalow ", Modera,
Street, Mutwal, ColomboPlaintiff-Appellant**

Against

- 1. **MISS IMELDA WEERASEKERA and** 20
- 2. **OLIVER GILES DE ZOYSA, both of Park Avenue,
Borella, Colombo Defendants-Respondents.**

Action No. 175/z

District Court of Colombo.

This cause coming on for hearing and determination on the 6th, 7th, 8th and 11th days of September, 1950, and on this day, upon an appeal preferred by the plaintiff-appellant before the Hon. Mr. E. G. P. Jayetileke, K.C., Chief Justice and the Hon. Mr. R. F. Dias, LL.D., Senior Puisne Justice of this Court, in the presence of Counsel for the appellant and respondents.

It is considered and adjudged that this appeal be and the same is so hereby dismissed with costs.

Witness the Hon. Mr. E. G. P. Jayetileke, K.C., Chief Justice, at Colombo, the 12th day of September, in the year of our Lord One thousand Nine hundred and Fifty, and of Our Reign the Fourteenth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S. C.

No. 15

Application for Conditional Leave to Appeal to the Privy Council

No. 15
Application
for Condi-
tional Leave
to Appeal
to the
Privy
Council
21-9-50

IN THE SUPREME COURT OF THE ISLAND OF CEYLON
MRS. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo*Plaintiff*

Supreme Court No. 534 (F)/ *Vs.*
D. C. Colombo No. 175/ZL.

(1) MISS IMELDA WEERASEKERA and
(2) OLIVER GILES DE ZOYSA both of No. 35, Park
10 Avenue, Borella, in Colombo*Defendants*

And

MRS. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo *Plaintiff-Appellant*

Vs.

(1) MISS IMELDA WEERASEKERA and
(2) OLIVER GILES DE ZOYSA, both of No. 35, Park
Avenue, Borella, in Colombo *Defendants-Respondents.*

To

20 THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF
THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON

On this 21st day of September, 1950

The Petition of the petitioner abovenamed appearing by M. D. Goonetillake, her Proctor, states as follows :—

(1) That feeling aggrieved by the judgment and decree of this Court pronounced on the 11th day of September, 1950, the said petitioner abovenamed is desirous of appealing therefrom to HIS MAJESTY THE KING IN COUNCIL.

(2) The said judgment is a final judgment and the matter in dispute on the appeal is well over the value of Rupees Five thousand (Rs. 5,000).

30 (3) That notice of the intended application for leave to appeal was served on the respondents in terms of Rule (2) of the Rules in the Schedule to the Appeals (Privy Council) Ordinance on the 14th day of September, 1950, by sending notices to the respondents abovenamed by :—

- (a) Registered post,
- (b) Ordinary post with certificate of posting,
- (c) Publication in the Daily News and Observer of 21st September, 1950,

No. 15
Application
for Condi-
tional Leave
to Appeal
to the
Privy
Council
21-9-50
—continued.

(d) The Fiscal, Western Province, Colombo, by affixing on the outer door or gate of the respondent's residence consequent on an application to this Court for substituted service.

Wherefore the petitioner prays that Your Lordships' Court be pleased to grant conditional leave to appeal against the said judgment and decree of this Court dated the 11th day of September, 1950, to HIS MAJESTY THE KING IN COUNCIL and for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) M. D. GOONETILLEKE,
Proctor for Petitioner. 10

No. 16
Decree
granting
Conditional
Leave to
Appeal to
the Privy
Council
26-9-50

No. 16

Decree granting Conditional Leave to Appeal to the Privy Council

**GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN,
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, KING,
DEFENDER OF THE FAITH.**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Mrs. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo *Plaintiff*

Vs.

1. Miss IMELDA WEERASEKERA and 20
2. OLIVER GILES DE ZOYSA, both of No. 35, Park
Avenue, Borella, in Colombo *Defendants*

And

Mrs. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo *Plaintiff-Appellant*

Vs.

1. Miss IMELDA WEERASEKERA and
2. OLIVER GILES DE ZOYSA of No. 35, Park Avenue,
Borella in Colombo *Defendant-Respondents.*

Action No. 175/Z (S. C. No. 534 (Final)) District Court of Colombo. 30

In the matter of an application by the plaintiff-appellant abovenamed dated 25th September, 1950, for conditional leave to appeal to His Majesty the King in Council against the decree dated 11th September, 1950.

This matter coming on for hearing and determination on the 26th day of September, 1950, before the Hon. Mr. E. G. P. Jayetileke, K.C., Chief Justice, and the Hon. Mr. V. L. St. C. Swan, Puisne Justice of this Court, in the presence of Counsel for the appellant and there being no appearance for the respondents.

No. 16
Decree
granting
Conditional
Leave to
Appeal to
the Privy
Council
26-9-50
Continued.

It is considered and adjudged that this application be and the same is hereby allowed upon the condition that the applicant do within one month from this date :

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000 and hypothecate the same by bond or such other security as the Court in terms of Section 7 (1) of the Appellate Procedure (Privy Council) order shall on application made after due notice to the other side approve.

2. Deposit in terms of provisions of Section 8 (a) of the Appellate Procedure (Privy Council) order with the Registrar a sum of Rs. 300 in respect of fees mentioned in Section 4 (b) and (c) of Ordinance No. 31 of 1909 (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the record or any part thereof in Ceylon for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Mr. E. G. P. Jayetileke, K.C., Chief Justice, at Colombo, the 2nd day of October, in the year of our Lord One thousand Nine hundred and Fifty, and of Our Reign the Fourteenth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S. C.

No. 17

No. 17
Application
for Final
Leave to
Appeal to
the Privy
Council
19-10-50

Application for Final Leave to Appeal to the Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

MRS. BRIDGET ANTONY of "Whist Bungalow", No. 93,
30 Modera Street, Mutwal, Colombo *Plaintiff*

S. C. 534 (F)/D. C. 175/ZL. Vs.

(1) Miss IMELDA WEERASEKERA and
(2) OLIVER GILES DE ZOYSA, both of No. 35, Park
Avenue, Borella, in Colombo *Defendants*

No. 17
Application
for Final
Leave to
Appeal to
the Privy
Council
19-10-50
—continued.

And

MRS. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo *Plaintiff-Appellant*

Vs.

- (1) MISS IMELDA WEERASEKERA and
(2) OLIVER GILES DE ZOYSA, both of No. 35, Park
Avenue, Borella, in Colombo *Defendants-Respondents.*

To

THE HONOURABLE THE CHIEF JUSTICE AND OTHER JUSTICES OF THE
SUPREME COURT OF THE ISLAND OF CEYLON. 10

On this 19th day of October, 1950

The Petition of the petitioner-appellant abovenamed appearing by her Proctor M. D. Goonetillake, states as follows :—

1. The petitioner abovenamed obtained conditional leave on the 26th day of September, 1950, to appeal to HIS MAJESTY THE KING IN COUNCIL from the judgment and decree of this Court dated the 11th September, 1950.

2. The petitioner has in compliance with the conditions on which leave was granted deposited a sum of Rupees Three thousand (Rs. 3,000) with the Registrar of this Court being security for costs of the respondents 20 on the 18th day of October, 1950, and mortgaged and hypothecated the said sum of Rs. 3,000 with the Registrar on the 19th day of October, 1950.

3. The petitioner has further deposited with the Registrar of this Court a further sum of Rupees Three hundred only (Rs. 300) in respect of the amount and fees mentioned in Section 4 (2) (b) and (c) of the Privy Council Ordinance, Cap. 85, on the 18th day of October, 1950.

4. The petitioner has given due notice of this application to the two respondents and produces herewith proofs thereof : (a) Certificates of posting (ordinary post) ; (b) Registered letter receipts.

Wherefore the petitioner prays that she be allowed final leave to 30 appeal to the Privy Council from the judgment and decree of this Court dated the 11th day of September, 1950, for costs and such other and further relief as Your Lordships' Court shall seem meet.

(Sgd.) M. D. GUNATILLEKE,
Proctor for Appellant.

Decree granting Final Leave to Appeal to the Privy Council

**GEORGE THE SIXTH, BY THE GRACE OF GOD, OF GREAT BRITAIN,
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, KING,
DEFENDER OF THE FAITH.**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

MRS. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo *Plaintiff*

Vs.

- 10 1. **MISS IMELDA WEERASEKERA** and
2. **OLIVER GILES DE ZOYSA**, both of No. 35, Park
Avenue, Borella, in Colombo *Defendants*

And

MRS. BRIDGET ANTONY of "Whist Bungalow", No. 93,
Modera Street, Mutwal, Colombo *Plaintiff-Appellant*

Vs.

1. **MISS IMELDA WEERASEKERA** and
2. **OLIVER GILES DE ZOYSA** of No. 35, Park Avenue,
Borella, in Colombo *Defendants-Respondents.*
- 20 Action No. 175/ZL—(S. C. No. 534 (Final).

District Court of Colombo.

In the matter of an application by the plaintiff-appellant abovenamed dated 20th October, 1950, for final leave to appeal to His Majesty the King in Council against the decree dated 11th September, 1950.

This matter coming on for hearing and determination on the 24th day of October, 1950, before the Hon Mr. C. Nagalingam, K.C., Puisne Justice, and the Hon. Mr. M. F. S. Pulle, K.C., Puisne Justice of this Court, in the presence of Counsel for the appellant.

The applicant having complied with the conditions imposed on her by the order of this Court dated 26th September, 1950, granting conditional leave to appeal.

It is considered and adjudged that the applicant's application for final leave to appeal to His Majesty the King in Council be and the same is hereby allowed.

Witness the Hon. Mr. E. G. P. Jayetileke, K.C., Chief Justice, at Colombo, the 27th day of October, in the year of our Lord One thousand Nine hundred and Fifty, and of Our Reign the Fourteenth.

(Sgd.) **W. G. WOUTERSZ,**
Deputy Registrar, S. C.

Exhibits
 No. P 11
 Power of
 Attorney
 No. 1425
 19-2-34

PART II
EXHIBITS

No. P 11

Power of Attorney No. 1425

P 11

No. 1425

TO ALL TO WHOM THESE PRESENTS SHALL COME, I, Conganige Seraphim Antony of " Whist Bungalow ", Mutwal, in Colombo in the Island of Ceylon.

Send Greeting :

WHEREAS I am carrying on business at Colombo aforesaid under 10 the name style and firm of " C. S. Antony & Co.".

AND WHEREAS I am about to leave the said Island and remain for some time in parts beyond the seas and am desirous of appointing fit and proper persons to act for me as my attorneys in the said Island during my said intended absence.

NOW KNOW YE AND THESE PRESENTS WITNESS THAT I, the said CONGANIGE SERAPHIM ANTONY have made nominated and appointed and by these presents do make nominate and appoint SIMON STOCK ANTONY, PATTATHIL MADHAVA MENON and CONGANIGE PERIGRINU ANTONY all of Colombo my true and lawful attorneys jointly to 20 act for me on my behalf and in my name or otherwise for all and each and every or any of the following purposes that is to say :

To carry on and manage my said business and for that purpose to do everything necessary in the premises including the purchase of TEA COUPONS for the purpose of the said business.

To superintend manage and control the houses lands estates and other landed property which I now am or hereafter may become entitled to possessed of or interested in. To sell and dispose of or to ship and consign for sale elsewhere the crops and produce of the estates which I now am or hereafter may become entitled to possessed of or interested in. 30

To ask demand sue for recover and receive of and from all persons liable now or hereafter to pay and deliver the same respectively all sum and sums of money debts legacies goods effects and things whatsoever now owing payable or belonging or which shall or may at any time hereafter be due owing and payable coming or belonging to me and on payment or delivery thereof to give sign and execute receipts releases and other discharges for the same respectively and thereupon to manage employ and deal with the same as I could or might lawfully do and on non-payment or non-delivery thereof or of any part thereof to commence

carry on and prosecute any action or actions suit or suits or other proceedings whatsoever before any Court or Courts in the said Island for receiving and compelling repayment or delivery thereof.

Exhibits
No. P 11
Power of
Attorney
No. 1425
19-2-34
—continued.

To state finally settle and adjust all accounts reckonings and demands whatsoever between me and any person or persons whomsoever and to compromise disputes and differences and to refer matters to arbitration and to sign and execute all necessary bonds submissions and references therefor and to enforce any award.

To appear for me before any Court or Courts in the said Island either
10 as plaintiff defendant or intervenient and to sign and grant all necessary proxy or proxies to any Proctor or Proctors of the said Courts and the same from time to time to recall and revoke and to prosecute or defend any suit or suits or other proceedings now or hereafter to be brought by or against me and to proceed to judgment thereon or to suffer judgment by way of default to be entered against me and to admit any claim or claims which may be brought against me in such Court or Courts as my said attorneys shall think fit and against any judgment order or decree of any of the said Courts to appeal and prosecute such appeal before the Supreme Court of the said Island and from any judgment order or decree
20 of the said Supreme Court to appeal to His Majesty the King in Council and give all necessary securities and sign all necessary bonds for the prosecution of such appeals.

To prove any debts or debt due to me by any person who shall be adjudged an insolvent in any Court or Courts in this Island and to vote in the election of assignees and to accept any offer of composition and otherwise to represent and act for me in such insolvency proceedings.

To jointly draw sign make endorse accept and discount any bill or bills of exchange or promissory note or notes bills of lading and to sign and endorse cheques for the purpose of drawing money out of any banks
30 in the said Island my attorneys being hereby authorised to draw from time to time such sums as may be necessary not exceeding in the aggregate the sum of Rupees Fifty thousand (Rs. 50,000).

To attend any meetings of any companies wherein I am a shareholder and to vote for me on any subject matter or question that may be brought forward at any such meetings at which by the rules and regulations of any such company I can or may vote if personally present and to grant proxies to any other person or persons to vote on my behalf for any of the said purposes and generally to act for me and do and execute any and every act matter or thing in respect of the liquidation or winding up
40 of any such company or otherwise as shall or may be found necessary or expedient.

Generally to do execute and perform all such further and other acts deeds matters and things whatsoever which my said attorneys shall think necessary or proper to be done in and about or concerning my business estates lands houses debts or affairs as fully and effectually to all intents and purposes as I might or could do if I were personally present and did .

Exhibits
 No. P 11
 Power of
 Attorney
 No. 1425
 19-2-84
 —continued.

the same in my proper person it being my intent and desire that all matters and things respecting the same shall be under the full management control and direction of my said attorneys.

AND I do hereby direct that all acts which shall be had made or done by my said attorneys before they or any one of them shall have received notice of my death or the revocation of the authority contained in these presents shall be as binding and valid to all intents and purposes as if the same had taken place previous to my death or before such revocation any rule of law or equity to the contrary notwithstanding.

AND it is hereby expressly declared and agreed that as against me¹⁰ and any person claiming under me every act deed matter or thing which the said attorneys or attorney shall execute or cause to be executed or done in relation to the premises subsequent to the revocation of the powers expressed to be hereby conferred or any of them shall be binding and conclusive in favour of every person claiming the benefit of such act deed matter or thing who shall not prior to the execution or doing thereof have received express notice of such revocation and it is hereby further declared that no such person shall be bound to inquire or ascertain whether I am living or whether the said powers or any of them have or has been revoked or otherwise determined. 20

AND IT IS HEREBY further expressly declared and agreed that no Company Corporation or Bank dealing with my said attorneys shall be concerned to ascertain or inquire whether or not this power of attorney has or has not lapsed determined or ceased to be in force by reason of my return to the said Island. AND in respect of any act deed matter or thing committed or done by my said attorneys under or by virtue of these presents prior to the receipt by such Company Corporation or Bank of notice in writing from me of my return to the said Island the same shall as between me and such Company Corporation or Bank be as valid and binding on me the same would have been if I had not so returned to the³⁰ said Island.

IN WITNESS WHEREOF I the said Conganige Seraphim Antony have hereunto and to two others of the same tenor and date as these presents set my hand at Gaffoor Buildings, Fort, in Colombo aforesaid on this Nineteenth day of February One thousand Nine hundred and Thirty-four.

(Sgd.) C. S. ANTONY.

Witnesses :

1. A. L. M. YUSUOOF
2. P. C. DE COSTA

(Sgd.) S. J. C. KADIRGAMAR,

Notary Public. 40

I, Samuel Jebaratnam Christian Kadirgamar of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over by the within named Conganige Serphim Antony who is known to me and who signed as "C. S. Antony" in the presence of Avoo Lebbe Marikar Mohamed Yusuof of Rajasinghe

Road, Wellawatte, in Colombo aforesaid and Peter Christopher de Costa of Mutwal in Colombo aforesaid who signed as "A. L. M. Yusuoof" and "P. C. de Costa" respectively the subscribing witnesses thereto both of whom are also known to me the same was signed by the said Conganige Seraphim Antony by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present together at the same time at Gaffoor Buildings, Fort, in Colombo aforesaid on this Nineteenth day of February, One thousand Nine hundred and Thirty-four.

Exhibits
No. P 11
Power of
Attorney
No. 1425
19-2-34
—continued.

I further certify and attest that the duplicate of this instrument bears a stamp of the value of Rs. 5 and that the said stamp was supplied by me.

Which I attest :

(Sgd.) S. J. C. KADIRGAMAR,
Notary Public.

Date of attestation : 19th February, 1934.

No. P 9

Mortgage Bond No. 702

No. P 9
Mortgage
Bond
No. 702
23-7-37

P 9—Previously registered :

- (1) Colombo A 189/296
- (2) Are defined portions of
- (3) Land registered in A 133/114—should be registered in two different folios with cross references to A 133/144.

Mortgage Bond

No. 702

TO ALL TO WHOM THESE PRESENTS SHALL COME, Conganige Seraphim Antony (Senior) Knight of St. Gregory the Great and Justice of the Peace, of Whist Bungalow, No. 93, Modera Street, Colombo (hereinafter called "the Mortgagor", which expression shall, where the context so requires or admits, mean and include the said Conganige Seraphim Antony, his heirs, executors and administrators) the address above-stated being the registered address of the mortgagor under the provisions of the Ceylon State Mortgage Bank Ordinance.

Sends Greeting :

1. (A) WHEREAS the Mortgagor is the lawful owner free from encumbrances of the lands and premises bearing assessment Nos. 22 and 24 Baillie Street, Fort, in Colombo ; Nos. 44 and 46 Fourth Cross Street and Nos. 45 and 47 Fifth Cross Street, Pettah, in Colombo, more fully described in the First Schedule hereto :

Exhibits
 No. P 9
 Mortgage
 Bond
 No. 702
 23-7-87
 —continued.

(B) AND WHEREAS the said Mortgagor has applied to “ The Ceylon State Mortgage Bank ” (hereinafter called “ The Bank ” which expression shall, where the context so requires mean and include the persons deriving title from the Bank) for a loan under the Ceylon State Mortgage Bank Ordinance, 1931 to be applied in or towards the following purposes, that is to say :

- (a) The purchase or lease of agricultural land, its development and improvement, and the incurring of capital expenditure necessary for the preparation of its produce for the market.
- (b) Any purpose incidental, accessory, or ancillary to any of the above purposes.
- (c) The liquidation of debts already incurred for any of the above purposes.
- (d) The purchase of any building or the land appurtenant thereto or of any land suitable for building purposes.
- (e) The lease, for a period of not less than 49 years, of any building or the land appurtenant thereto or of any land suitable for building purposes.
- (f) The erection of a building on any land.
- (g) The discharge of a mortgage on any building or the land appurtenant thereto or on any land suitable for building purposes.

(C) AND WHEREAS the Bank has agreed to grant such a loan to the Mortgagor on having the repayment thereof with interest secured in the manner hereinafter appearing:

2. NOW this Bond Witnesseth as follows:—

(a) In pursuance of the said agreement and in consideration of the sum of One hundred thousand Rupees (Rs. 100,000) now paid by the Bank to the Mortgagor (the receipt of which sum the Mortgagor doth hereby acknowledge) the Mortgagor is held and firmly bound to the Bank in the said sum of One hundred thousand Rupees, lawful money of Ceylon, and interest thereon at the rate of Five Rupees per centum per annum to be paid to the Bank, for which payment to be well and truly made the Mortgagor is firmly bound by these presents.

(b) And for further securing to the Bank the payment of all the money payable by virtue of or in request of these presents the Mortgagor doth hereby specially mortgage to the Bank as a first or primary mortgage free from all encumbrances the lands and premises bearing Assessment Nos. 22 and 24 Baillie Street, Fort, in Colombo and Nos. 44 and 46 Fourth Cross Street and Nos. 45 and 47 Fifth Cross Street, Pettah, in Colombo and in the First Schedule hereto fully described, with all rights, privileges, easements, servitudes and appurtenances whatsoever thereto belonging, or in anywise appertaining or used or enjoyed therewith, or reputed or known as part and parcel thereof and all the estate, right, title, interest, property, claim and demand whatsoever of the Mortgagor in, to, out, of or upon the said land.

(c) And for better securing the said mortgage, the Mortgagor doth herewith deposit in the hands of the said Bank the Title Deeds of the said land or lands.

Exhibits
No. P 9
Mortgage
Bond
No. 702
23-7-37

3. The Mortgagor hereby covenants with the Bank as follows :—

(a) That the land mortgaged by these presents is in nowise encumbered either by a prior charge, Fiscal's seizure or claim and that the Mortgagor has full power and legal right to mortgage the same and will warrant and defend title to the said land against all other claimants whomsoever.

10 (b) (ii) That the Mortgagor will pay the said principal sum of One hundred thousand Rupees and interest in the instalments and on the dates set out in the Second Schedule hereto.

(c) That during the continuance of this security the Mortgagor will pay and discharge and indemnify the Bank against all rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever which shall be assessed, charged or imposed upon, or payable in respect of the mortgaged premises or any part thereof by the Mortgagor or the Bank or a receiver in respect thereof and that, if the Mortgagor shall at any time refuse or neglect to make such payments or to deliver the receipts therefor
20 to the Bank on demand, the Bank may pay the same, and all monies expended by the Bank under this provision shall be deemed to be properly paid by the Bank.

(d) That the Mortgagor will from time to time so long as money remains owing on this security well and substantially repair and keep in good and substantial repair and condition all buildings and other improvements erected and made upon the said land, and the Bank may at all times be at liberty by itself, its agents or servants, to enter upon the said land to view and inspect the said buildings and improvements.

(e) That if the Mortgagor fail or neglect to repair the said buildings
30 and improvements or to keep them in good and substantial repair and condition as aforesaid, then and in any such case and as often as the same shall happen it shall be lawful for, but not obligatory upon, the Bank, at the cost and expense in all things of the Mortgagor, to repair the said buildings and improvements and keep them in good and substantial repair and condition.

(f) Insurance shall be effected as may be prescribed by regulations or instructions of the Bank. Every Policy of Insurance so effected or renewal thereof shall be in the name of the Bank.

(g) That all monies expended by the Bank in and about repairing or
40 keeping in repair any of the said buildings and improvements as aforesaid, or in effecting or renewing the insurance thereof, or in attempting to exercise or enforce any power, right or remedy herein contained or implied, in favour of the Bank, shall be payable to the Bank by the Mortgagor on demand, and until paid shall be charged on the said land together with interest at the rate of not more than the rate prescribed for the time being under the said Ordinance, or any amendment thereof, computed from the date or dates of such monies being expended.

—continued.

Exhibits
 No. P 9
 Mortgage
 Bond
 No. 702
 28-7-87
 —continued.

(h) That the Mortgagor will at all times cultivate and manage the lands hypothecated in a skilful and proper manner and according to the rules of good husbandry. Failure in the performance of this condition shall entail the immediate recovery of the advance should the Bank so desire.

(i) That the power of sale and incidental powers in that behalf conferred upon the Bank under the said Ceylon State Mortgage Bank Ordinance, 1931, or any amendment thereof, shall be implied herein and that they may be exercised if and whenever the Mortgagor makes default in the full and punctual payment of any instalment of interest or principal in accordance with the respective covenants for payment thereof herein contained, or if and whenever the Mortgagor makes default in the faithful observance and performance of any other covenant or conditions on his part herein contained or implied :

Provided, however, and it is hereby expressly agreed, that the Bank may, in exercising the said powers of sale and incidental powers as aforesaid (and by special resolution of its Board of Directors to that effect published in the Gazette) sell any land mortgaged to it as security either in its entirety or in two or more separate blocks or in both such ways, at any public sale or sales held under the said Ordinance. 20

(j) That if and whenever the Mortgagor makes any such default as in the last preceding covenant mentioned, it shall be lawful for the Bank to call up and compel payment of all principal, interest and other monies for the time being owing under this security, notwithstanding that the time or times by these presents appointed for the payment thereof respectively may not have arrived.

4. Provided always that upon any sale under the statutory power a purchaser shall not either before or after conveyance be concerned to see or inquire whether any default has been made in payment of any such instalment or be affected by any notice that no such default has occurred or that the sale is otherwise unnecessary or improper. 30

5. Provided that this bond is subject to the provisions of the Ceylon State Mortgage Bank Ordinance, 1931, or any law amending or replacing the same and all regulations made thereunder so far as they are capable of applying it to the exclusion of the common law governing mortgages.

The First Schedule above referred to :

1. All those premises with the buildings standing thereon presently bearing assessment Nos. 22 and 24 (formerly No. 22 and before that No. 19) situated at Baillie Street in Fort within the Municipality and District of Colombo Western Province bounded on the North by Baillie Street, on the East and South by Globe Hotel premises bearing assessment Nos. 26 and 28, and on the West by premises No. 18 containing in extent twenty-two perches and fifty-six one hundredth of a perch (0A. 0R. 22,56/100P) according to Survey Plan No. 1909 dated 20th June, 1937, made by S.

Saba Ratnam, Licensed Surveyor, which said premises comprise or include the two following contiguous allotments of land described in the title deed in favour of the mortgagor as follows :—

Exhibits
No. P 9
Mortgage
Bond
No. 702
23-7-37
—continued.

- 10 (a) The property and premises situate and lying in Baillie Street aforesaid bounded on the North by Baillie Street, on the East by the house of Raffa, on the South by the house of A. Perera, and on the West by the house of Raffa, containing in extent nine perches and twenty-six one hundredth of a perch (0A. 0R 9,26/100P) according to survey dated 6th April, 1818, authenticated by Joseph Atkinson, Land Surveyor.
- (b) The property and premises situate and lying in Baillie Street aforesaid bounded on the North by Baillie Street, on the East by the house of Mr. Bletterman, on the South by the house of Mr. Dickson, and on the West by the house of Mr. Ublenbeck containing in extent eight perches and eighty-six one hundredth of a perch (0A. 0R. 8,86/100P) according to the figure of survey dated 12th December, 1814, authenticated by G. Schneider, Acting Surveyor-General

held and possessed by the Mortgagor under and by virtue of Deed No. 689 dated 4th February, 1929, attested by O. P. Mount, Notary Public, and otherwise and registered in A 189/296.

2. All that allotment of land with the buildings standing thereon presently bearing assessment Nos. 45 and 47 Fifth Cross Street (old No. 9) in Pettah within the Municipality and District of Colombo Western Province bounded on the North by premises bearing assessment No. 10 belonging to the Trustees of the Borah mosque, on the East by Fifth Cross Street, on the South by premises bearing assessment No. 8 belonging to the estate of the late Pelis Mohandiram and on the West by premises bearing assessment No. 58 (Fourth Cross Street) belong to C. S. Antony containing in extent six perches and sixty-five one hundredth of a perch (0A. 0R. 6,65/100P.) according to survey No. 1109 dated 21st January, 1921 made by A. R. Savundranayagam, Licensed Surveyor.

3. All that allotment of land with the building standing thereon presently bearing assessment Nos. 44 and 46, Fourth Cross Street (old No. 58) in Pettah aforesaid bounded on the North by premises bearing assessment No. 57 belonging to the Trustees of the Borah Mosque, on the East by premises bearing assessment No. 9 (Fifth Cross Street) belonging to C. S. Antony, on the South by premises bearing assessment No. 59 belonging to W. E. Bastian, and on the West by Fourth Cross Street containing in extent seven perches eighty-one one hundredth of a perch (0A. 0R. 7,81/100P.) according to Survey Plan No. 1108 dated 21st January 1921, made by A. R. Savundranayagam, Licensed Surveyor.

(The above allotments of land being defined portions comprising all that allotment of land with the buildings thereon formerly bearing assessment Nos. 58 and 9 situated between Fourth and Fifth Cross Streets in Pettah aforesaid bounded on the North by the property belonging to

Exhibits
No. P 9
Mortgage
Bond
No. 702
23-7-37
—continued.

the estate of the late William Fieul, on the East by the new canal now Fifth Cross Street, on the South by the house which was occupied by the late Mr. Konenberg, and on the West by the Fourth Cross Street containing in extent fifteen perches and twelve one hundredth of a perch (0A. 0R. 15,12/100P.) according to figure of survey dated 9th February, 1841, made by C. H. Schwallie, Surveyor, registered in A 133/114.) held and possessed by the Mortgagor upon Certificate of Title dated 12th June, 1918, issued in proceedings No. 47,516 of the District Court of Colombo.

(Sgd.) Illegibly in English

(Sgd.) ALEXANDER B. TILLEKERATNE, 10
N. P.

The Second Schedule above referred to

Loan of Rs. 100,000/- repayable in Twenty-five years by equal half-yearly payments of Rs. 3525.806 to include principal and interest.

<i>Due Date</i>	<i>Instalment</i>	<i>Due Date</i>	<i>Instalment</i>
23rd January, 1938	Rs. 3,525.81	23rd January, 1944	Rs. 3,525.81
23rd July, 1938	„ 3,525.81	23rd July, 1944	„ 3,525.81
23rd January, 1939	„ 3,525.81	23rd January, 1945	„ 3,525.81
23rd July, 1939	„ 3,525.81	23rd July, 1945	„ 3,525.81
23rd January, 1940	„ 3,525.81	x x x	x x 20
23rd July, 1940	„ 3,525.81	x x x	x x
23rd January, 1941	„ 3,525.81	23rd January, 1961	„ 3,525.81
23rd July, 1941	„ 3,525.81	23rd July, 1961	„ 3,525.81
23rd January, 1942	„ 3,525.81	23rd January, 1962	„ 3,525.81
23rd July, 1942	„ 3,525.81	23rd July, 1962	„ 3,525.81
23rd January, 1943	„ 3,525.81		
23rd July, 1943	„ 3,525.81		

In witness whereof “ the Mortgagor ” doth set his hand hereto and to two others of the same tenor and date as these presents at the State Mortgage Bank’s Office Colombo, on this Twenty-third day of July, in 30 the year One thousand Nine hundred and Thirty-seven.

(Sgd.) Illegibly in English.

Witnesses :

1. (Sgd.) P. M. MENON
2. (Sgd.) D. P. BATAWALA

(Sgd.) ALEXANDER B. TILLEKERATNE,
Notary Public.

I, Alexander Boniface Tillekeratne of Colombo, in the Island of Ceylon, Notary Public, by lawful authority duly admitted and enrolled, do hereby certify and attest that the foregoing instrument having been read over by Conganige Seraphim Antony the Mortgagor aforesaid who is known to me and signed this deed illegibly in English in the presence of Pattathil Madhava Menon of No. 93, Modera Street, Mutwal, and Don Peter Batawala also of Modera Street, Mutwal, the subscribing witnesses hereto (both of whom are known to me) the same was signed by the said Mortgagor and also by the said witnesses in my presence and in the presence of one another all being present at the same time, on the Twenty-third day of July, One thousand Nine hundred and Thirty-seven, at the office of the Ceylon State Mortgage Bank, Gaffoor Building, Fort, Colombo.

Exhibits
No. P 9
Mortgage
Bond
No. 702
23-7-37
—continued.

And I further certify and attest that in both original and duplicate on page etc., etc., typed on erasure before the foregoing was read over and signed by the mortgagee aforesaid and that the consideration herein mentioned was with the consent of the mortgagee retained in the hands of the said Bank till after the effectual registration of this bond and the production of extended extracts of encumbrances to be thereafter paid partly to the Mortgagor's creditors on bonds No. 690 dated 4th February, 1929, attested by O. P. Mount, Notary Public, and No. 369 dated 24th March, 1921, attested by S. G. A. Julius, Notary Public, and the balance if any, to the Mortgagor himself but subject to the provisions of the Ceylon State Mortgage Bank Ordinance and that the original of this instrument bears one stamp of the value of Rupee one and the duplicate hereof bears six stamps of the aggregate value of Rupees eight hundred and four and that the said stamps were impressed by the Commissioner of Stamps at the request of the said Bank.

Which I attest,
(Sgd.) ALEXANDER B. TILLEKERATNE,
Notary Public.

Date of attestation : Colombo 23rd July, 1937.

No. P 10

Mortgage Bond No. 745

No. P 10
Mortgage
Bond
No. 745
7-10-38

Previously registered :

(1) Colombo A 242/77

(2) Colombo A 242/78

Registered (Colombo A. Vol. 254, Folio 106

A. Vol. 242, Folio 78

— Vol. —, Folio —

— Vol. —, Folio —

Colombo, 8th October, 1938.

Mortgage Bond**No. 745**

Exhibits
 No. P 10
 Mortgage
 Bond
 No. 745
 7-10-38
 —continued.

TO ALL TO WHOM THESE PRESENTS SHALL COME, Chevalier Conganige Seraphim Antony, Justice of the Peace and K.S.G. of Whist Bungalow, No. 93, Modera Street, Colombo (hereinafter called "the Mortgager", which expression shall where the context so requires or admits, mean and include the said Chevalier Conganige Seraphim Antony, heirs, executors and administrators) the address above stated being the registered address of the mortgagor under the provisions of the Ceylon State Mortgage Bank Ordinance.

10

Send Greeting :

1. (A) WHEREAS the Mortgagor is the lawful owner free from encumbrances of the land and premises bearing assessment Nos. 69 and 71 Fifth Cross Street, Colombo, and of the land and premises bearing assessment Nos. 305, 305 (1-12, 14-17) and 289, Ferguson's Road in Colombo, more fully described in the First Schedule hereto :

(B) AND WHEREAS the said Mortgager has applied to "The Ceylon State Mortgage Bank" (hereinafter called "The Bank" which expression shall, where the context so requires, mean and include the persons deriving title from the Bank) for a loan under the Ceylon State Mortgage Bank Ordinance, 1931, to be applied in or towards the following purposes, that is to say :

- (a) The purchase or lease of agricultural land, its development and improvement, and the incurring of capital expenditure necessary for the preparation of its produce for the market.
- (b) Any purpose incidental, accessory, or ancillary to any of the above purposes.
- (c) The liquidation of debts already incurred for any of the above purposes.
- (d) The purchase of any building or the land appurtenant thereto or of any land suitable for building purposes.
- (e) The lease, for a period of not less than 49 years, of any building or the land appurtenant thereto or of any land suitable for building purposes.
- (f) The erection of a building on any land.
- (g) The discharge of a mortgage on any building or the land appurtenant thereto or on any land suitable for building purposes.

(C) AND WHEREAS the Bank has agreed to grant such loan to the Mortgagor on having the repayment thereof, with interest secured in the manner hereinafter appearing :

40

2. NOW THIS BOND WITNESSETH AS FOLLOWS :—

Exhibits

(a) In pursuance of the said agreement and in consideration of the sum of Forty-five thousand Rupees (Rs. 45,000) now paid by the Bank to the Mortgagor (the receipt of which sum the Mortgagor doth hereby acknowledge) the Mortgagor is held and firmly bound to the Bank in the said sum of Forty-five thousand Rupees lawful money of Ceylon, and interest thereon at the rate of Five Rupees per centum per annum to be paid to the Bank, for which payment to be well and truly made the Mortgagor is firmly bound by these presents.

No. P 10
Mortgage
Bond
No. 745
7-10-38
—continued.

10 (b) And for further Securing to the Bank the payment of all the money payable by virtue of or in respect of these presents the Mortgagor doth hereby specially mortgage to the Bank as a first or primary mortgage free from all encumbrances the lands and premises referred to in paragraph 1 (A) and in the First Schedule hereto fully described with all rights, privileges, easements, servitudes and appurtenances whatsoever thereto belonging, or in anywise appertaining or used or enjoyed therewith, or reputed or known as part and parcel thereof and all the estate, right, title, interest, property, claim and demand whatsoever of the Mortgagor in, to, out of, or upon the said land.

20 (c) And for better securing the said Mortgage, the Mortgagor doth herewith deposit in the hands of the said Bank the title deeds of the said land or lands.

3. The Mortgagor hereby covenants with the Bank as follows :—

(a) That the land mortgaged by these presents is in nowise encumbered either by a prior charge, Fiscal's seizure or claim and that the Mortgagor has full power and legal right to mortgage the same and will warrant and defend title, to the said land against all other claimants whomsoever.

(b) That the Mortgagor will pay the said principal sum of Forty-five thousand Rupees and interest in the instalment and on the dates set out in the Second Schedule hereto.

(c) That during the continuance of this security the Mortgagor will pay and discharge and indemnify the Bank against all rates, taxes duties, charges, assessments, impositions and outgoings whatsoever which shall be assessed, charged, or imposed upon, or payable in respect of the mortgaged premises or any part thereof by the Mortgagor or the Bank or a receiver in respect thereof and that, if the Mortgagor shall at any time refuse or neglect to make such payments or to deliver the receipt therefor to the Bank on demand, the Bank may pay the same, and all monies
40 expended by the Bank under this provision shall be deemed to be properly paid by the Bank.

(d) That the Mortgagor will from time to time so long as money remains owing on this security well and substantially repair and keep in good and substantial repair and condition all buildings and other improve-

Exhibits
 No. P 10
 Mortgage
 Bond
 No. 745
 7-10-38
 —continued.

ments erected and made upon the said land, and the Bank may at all time be at liberty by itself, its agents or servants, to enter upon the said land to view and inspect the said buildings and improvements.

(e) That if the Mortgagor fail or neglect to repair the said buildings and improvements or to keep them in good and substantial repair and condition as aforesaid, then and in any such case and as often as the same shall happen it shall be lawful for, but not obligatory upon, the Bank, at the cost and expense in all things of the Mortgagor, to repair the said buildings and improvements and keep them in good and substantial repair and condition.

(f) Insurance shall be effected as may be prescribed by regulations or instructions of the Bank. Every policy of insurance so effected or renewal thereof shall be in the name of the Bank. 10

(g) That all monies expended by the Bank in and about repairing or keeping in repair any of the said buildings and improvements as aforesaid, or in effecting or renewing the insurance thereof, or in attempting to exercise or enforce any power, right or remedy herein contained or implied, in favour of the Bank, shall be payable to the Bank by the Mortgagor on demand, and until paid shall be charged on the said land together with interest at the rate of not more than the rate prescribed for the time being under the said Ordinance, or any amendment thereof, computed from the date or dates of such monies being expended.

(h) That the Mortgagor will at all times cultivate and manage the 20 lands hypothecated in a skilful and proper manner and according to the rules of good husbandry. Failure in the performance of this condition shall entail the immediate recovery of the advance should the Bank so desire.

(i) That the power of sale and incidental powers in that behalf conferred upon the Bank under the said Ceylon State Mortgage Bank Ordinance, 1931, or any amendment thereof, shall be implied herein and that they may be exercised if and whenever the Mortgagor makes default in the full and punctual payment of any instalment of interest or principal in accordance with the respective covenants for payment thereof herein 30 contained, or if and whenever the Mortgagor makes default in the faithful observance and performance of any other covenant or conditions on his part herein contained or implied :

Provided, however, and it is hereby expressly agreed, that the Bank may, in exercising the said powers of sale and incidental powers as aforesaid (and by special resolution of its Board of Directors to that effect published in the Gazette) sell any land mortgaged to it as security either in its entirety or in two or more separate blocks or in both such ways, at any public sale or sales held under the said Ordinance.

(j) That if and whenever the Mortgagor makes any such default as in 40 the last preceding covenant mentioned, it shall be lawful for the Bank to call up and compel payment of all principal, interest and other monies

for the time being owing under this security, notwithstanding that the time or times by these presents appointed for the payment thereof respectively may not have arrived.

Exhibits
No. P 10
Mortgage
Bond
No. 745
7-10-38
—continued.

4. Provided always that upon any sale under the statutory power a purchaser shall not either before or after conveyance be concerned to see or inquire whether any default has been made in payment of any such instalment or be affected by any notice that no such default has occurred or that the sale is otherwise unnecessary or improper.

5. Provided that this bond is subject to the provisions of the Ceylon State Mortgage Bank Ordinance, 1931, or any law amending or replacing the same and all regulations made thereunder so far as they are capable of applying it to the exclusion of the common law governing mortgages.

The First Schedule above referred to

1. An allotment of land with the buildings thereon formerly bearing assessment No. 988/12 but presently bearing assessment Nos. 69 and 71 Fifth Cross Street in Pettah within the Municipality and District of Colombo, Western Province, bounded on the North by the property bearing assessment No. 987/13 of Adamjee Lukmanjee, on the East by Fifth Cross Street, on the South by the property bearing assessment No. 989/11 of Adamjee Kadibhoy, and on the West by the property bearing assessment No. 862/52 of H. Matilda *alias* Mabel Fernando and others, containing in extent seven decimal twelve perches (0A. 0R. 7.12P.) according to the figure of survey No. 1267 dated 15th August, 1918, made by J. H. W. Smith, Licensed Surveyor, held and possessed by the Mortgagor upon Deed No. 389 dated 13th November, 1919, attested by G. E. J. Vandergert, Notary Public.

2. All those four contiguous allotments of land forming one property with the buildings standing thereon formerly bearing assessment Nos. 39, 47A and 44, but presently bearing assessment Nos. 305, 305 (1-12, 14-17) and 289 Ferguson's Road in Mattakuliya within the Municipality and District of Colombo, Western Province, bounded on the North by the property bearing assessment No. 52 of J. C. Fernando and others, No. 51 of W. C. Fernando, formerly by the garden of Galleradage Thomas Fernando, Paternella Gomes and Lawrence Markus, No. 50 of Peternella Markus, No. 48 of Charlotte Markus formerly of the late Batagodage Juan Fernando *alias* Gabriel Silva, No. 47 of the heirs of Abel Fernando, No. 46 of W. J. Fernando, Nos. 44 and 45A of F. S. Fonseka, formerly by the garden of Louis Markus, No. 41 of M. A. Fernando formerly by part No. 3 belonging to Solomon Fernando and Daniel Fernando and No. 40 belonging to Abraham Fernando and Daniel Fernando, on the East by Ferguson's Road, on the South by the grass field bearing assessment No. 38 of J. G. Abeyesinghe Mudaliyar, formerly of Appu Aratchi, and on the West by the property bearing assessment No. 120 of D. L. Markus formerly of Clara Fernando, containing in extent Five acres two roods and thirty perches (5A. 2R. 30P.) according to survey plan dated 5th February, 1917,

Exhibits
No. P 10
Mortgage
Bond
No. 745
7-10-38
—continued.

made by P. F. Goonesekera, Licensed Surveyor, held and possessed by the Mortgagor upon Certificate of Title issued under the Partition Ordinance in proceedings No. 46781 of the District Court of Colombo dated 25th March, 1919.

The Second Schedule above referred to

Loan of Rs. 45,000 repayable in twenty-five years by equal half-yearly payments of Rs. 1,586·61 270 to include principal and interest.

Due Date	Instalment	Due Date	Instalment
7th April, 1939	Rs. 1,586·61	7th April, 1947	Rs. 1,586·61
7th October, 1939	„ 1,586·61	7th October, 1947	„ 1,586·61 10
7th April, 1940	„ 1,586·61	7th April, 1948	„ 1,586·61
7th October, 1940	„ 1,586·61	7th October, 1948	„ 1,586·61
7th April, 1941	„ 1,586·61	7th April, 1949	„ 1,586·61
7th October, 1941	„ 1,586·61	7th October, 1949	„ 1,586·61
7th April, 1942	„ 1,586·61	7th April, 1950	„ 1,586·61
7th October, 1942	„ 1,586·61	7th October, 1950	„ 1,586·61
7th April, 1943	„ 1,586·61	7th April, 1951	„ 1,586·61
7th October, 1943	„ 1,586·61	7th October, 1951	„ 1,586·61
7th April, 1944	„ 1,586·61	x x	x x
7th October, 1944	„ 1,586·61	7th April, 1961	„ 1,586·61 20
7th April, 1945	„ 1,586·61	7th October, 1961	„ 1,586·61
7th October, 1945	„ 1,586·61	7th April, 1962	„ 1,586·61
7th April, 1946	„ 1,586·61	7th October, 1962	„ 1,586·61
7th October, 1946	„ 1,586·61	7th April, 1963	„ 1,586·61
		7th October, 1963	„ 1,586·61

IN WITNESS WHEREOF “the Mortgagor” doth set his hand hereto and to two others of the same tenor and date as these presents at the State Mortgage Bank’s Office, Colombo, on this Seventh day of October in the year One thousand Nine hundred and Thirty-eight.

(Sgd.) (Illegibly in English). 30

Witnesses :

1. (Sgd.) P. M. MENON
 2. (Sgd.) D. P. BATAWALA
- (Sgd.) ALEXANDER B. TILLEKERATNE.
Notary Public.

I, Alexander Boniface Tillekeratne of Colombo, in the Island of Ceylon, Notary Public, by lawful authority duly admitted and enrolled, do hereby certify and attest that the foregoing instrument having been read over by Chevalier Conganige Seraphim Antony the Mortgagor afore-said who is known to me and signed this deed illegibly in English in the presence of Pattathil Madhava Menon of No. 93, Modera Street, Mutwal,

and Don Peter Batawala also of Modera Street, Mutwal in Colombo the subscribing witnesses hereto (both of whom are known to me the same was signed by the said Mortgagor and also by the said witnesses in my presence and in the presence of one another all being present at the same time, on the Seventh day of October, One thousand Nine hundred and Thirty-eight, at the office of the Ceylon State Mortgage Bank, Gaffoor Building, Fort, Colombo.

Exhibits
No. P 10
Mortgage
Bond
No. 745
7-10-38
—continued.

And I further certify and attest that in both original and duplicate on page 2 line 3 the word "called", etc., typed on erasure before the foregoing was read over and signed by the Mortgagor aforesaid and that the consideration herein mentioned was with the consent of the said Mortgagor retained in the hands of the Bank till after the effectual registration of this bond and the production of extended extracts of encumbrances to be thereafter paid to the Mortgagor's creditors upon Bond No. 6388 dated 10th May, 1920, attested by A. W. Alwis, Notary Public, and the balance, if any, to the Mortgagor himself, but subject to the provisions of the Ceylon State Mortgage Bank Ordinance and that the original of this instrument bears one stamp of the value of Rupee one and the duplicate hereof bears seven stamps of the aggregate value of Rupees Three hundred and Sixty-three and that the said stamps were impressed by the Commissioner of Stamps at the request of the said Bank.

Which I attest :
(Sgd.) ALEXANDER B. TILLEKERATNE,
Notary Public.

Date of attestation : Colombo, 7th October, 1938.

No. P 3
Deed No. 143

No. P 3
Deed
No. 143
24-2-39

Prior Registration : A 179/124 and A 194/273.

Registered A 179/124 and 194/273.

30

Colombo, 28th February, 1939.

(Sgd.) Illegibly.

R. L.

No. 143

TO ALL TO WHOM THESE PRESENTS SHALL COME, Chevalier Conganige Seraphim Antony, Justice of the Peace, Knight of St. Gregory the Great, of Whist Bungalow in Mutwal in Colombo.

Sends Greeting :

WHEREAS the said Chevalier Conganige Seraphim Antony (hereinafter called "the Donor") is under and by virtue of Deeds Nos. 545 dated 22nd day of June, 1927, attested by S. J. C. Kadirgamar of Colombo,

40

Exhibits
 No. P 3
 Deed
 No. 143
 24-2-39
 —continued.

Notary Public, No. 477 dated 4th September, 1929, attested by J. L. S. Fernando of Colombo, Notary Public, seized and possessed of all those premises in the Schedule hereto fully described.

AND WHEREAS the said Donor is desirous of granting and assigning by way of gift unto his wife, Alutdura Bridget Fernando Goonesekera now known as Bridget Antony (hereinafter called and referred to as "the Donee") all those lands and premises in the Schedule hereto fully described subject to the conditions and restrictions hereinafter contained.

NOW KNOW YE AND THESE PRESENTS WITNESS that I the said Donor in pursuance of the said desire and in consideration of the 10 natural love and affection which I have and bear unto my said wife, Alutdura Bridget Fernando Goonesekera now known as Bridget Antony and divers other good causes and considerations me hereunto specially moving do hereby give grant transfer set over and assure by way of gift irrevocable unto her the said Donee all those lands and premises in the Schedule hereto fully described, subject to the conditions and restrictions hereinafter contained, together with all and singular the appurtenances thereof or thereunto in any wise belonging or used or enjoyed therewith or reputed or known as part or parcel thereof and all the estate right title interest claim and demand whatsoever of me the said Donor in to upon 20 or out of the said premises hereby gifted and assigned and all deeds and writings relating thereto :

TO HAVE AND TO HOLD the said premises hereby gifted and assigned unto her the said Donee subject to the following conditions and restrictions to wit :

1. That the said Donee shall not sell mortgage or encumber the said premises hereby gifted or any part thereof or the rents profits and income thereof but shall hold possess and enjoy the rents profits and income thereof during her lifetime and after her death the said premises shall devolve on and vest in my grand-daughter Mary Emilda Weerasekera (by 30 my daughter Mary Margaret Antony), also subject to the conditions that she shall not sell mortgage encumber or otherwise alienate the said premises or any part thereof or the rents profits and income thereof, but that she too shall possess and enjoy the same during her lifetime and after her death the said premises shall devolve on and vest in her lawful child children or remoter issue in equal shares absolutely and free of all conditions. In the event of the said Mary Imelda Weerasekera dying without issue then the said premises shall devolve on the child or children of my son Simon Stock Antony in equal shares.

2. That in the event of the said Donee selling mortgaging, gifting 40 disposing of by will or otherwise alienating the said premises or any part thereof or the rents profits or income thereof or in the event of the said premises or any part thereof being seized or sold in execution of any debt default or miscarriage of the said Donee then the said Donee shall forthwith lose her interest or benefit in the said premises and the same shall devolve on and vest in my said grand-daughter, Mary Imelda Weerasekera.

In the event of the said Mary Imelda Weerasekera selling mortgaging gifting disposing of by will or in any other manner alienating or encumbering the said premises or any part thereof or the rents profits and income thereof or in the event of the said premises or any part thereof being seized or sold in execution of any debt default or miscarriage of the said Mary Imelda Weerasekera, then the said Mary Imelda Weerasekera shall forthwith lose her interest or benefit in the said premises and the same shall devolve on and vest in her lawful child children or remoter issue, failing whom the same shall devolve on and vest in the children of my
 10 son Simon Stock Antony, free of all conditions.

Exhibits
 No. P 8
 Deed
 No. 148
 24-2-39
 —continued.

AND I the said Donor for myself my heirs, executors and administrators covenant and declare with and to the said Donee that the premises hereby gifted are free from all encumbrances and that I and my aforewritten shall and will always warrant and defend title to the said premises and every part thereof unto the said Donee and her aforewritten against any person or persons whomsoever ; and that I shall and will at all times hereafter at the request and cost of the said Donee or her aforewritten do and execute and or cause to be done and executed all such further and other acts deeds matters and assurances whatsoever for the more perfectly
 20 assuring the said premises hereby gifted and every part thereof unto the said Donee and her aforewritten as by her or them shall or may be reasonably required. I the said Donor do hereby declare that the said premises are of the value of Rupees Twenty thousand (Rs. 20,000).

AND THESE PRESENTS FURTHER WITNESS that I the said Donee do hereby gratefully and thankfully accept the gift aforesaid subject to the conditions above-mentioned.

IN WITNESS WHEREOF we the said Donor and Donee have hereunto and to two others of the same tenor and date as these presents set our respective hands at Colombo on this Twenty-fourth day of February,
 30 One thousand Nine hundred and Thirty-nine.

The Schedule above referred to

1. All that allotment of land with the buildings standing thereon bearing assessment No. 3208/96, and presently bearing assessment Nos. 733 737 (31 to 58), 737 (95 to 125), 739, 741, 743, 745 and 747, situate at Alutmawatte Road, Mutwal, in Kotahena Ward within the Municipality and District of Colombo Western Province, bounded on the North-east by the land called Rajamalwatte, on the South-east by Alutmawatte Road, on the South-west by the properties of Cyril Silva and John Fonseka, and on the North-west by the property of John Fonseka and the property
 40 belonging to the estate of the late Mr. Chapman Dias containing in extent one acre one rood and thirty perches and sixty-two one hundredths of a perch (1A. 1R. 30 62/100P.) inclusive of the boundary wall according to the figure of survey and description bearing No. 3116 dated 6th day of June, 1927, made by H. G. Dias, Licensed Surveyor and Leveller.

Exhibits
 No. P 8
 Deed
 No. 148
 24-2-89
 —continued.

2. All that strip of land from the land called Kongahawatte bearing assessment No. 92, situate at Madampitiya Road in Alutmawatte in Mutwal in Kotahena Ward within the Municipality and District of Colombo Western Province, bounded on the North-east and South-east by the property belonging to the estate of the late Mr. N. D. P. Silva, now of C. S. Antony, Esq., J.P., on the South-west by the property of W. A. Rodrigo and others, and on the North-west by the remaining portion of this property containing in extent one and forty-seven hundredths perches (O.A. OR. 1 47/100P.) according to plan thereof bearing No. 3170 dated 14th August, 1929, made by J. H. W. Smith, Registered Licensed Surveyor. 10

(Sgd.) C. S. ANTONY

„ BRIDGET ANTONY

Witnesses

1. (Sgd.) H. A. L. MENDIS

2. (Sgd.) N. T. RAJAH

(Sgd.) K. RASANATHAN,

N. P.

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executants both of whom are well known to me, both of whom have signed these presents in English as “C. S. Antony” and “Bridget Antony” respectively in the presence of Hiddadura Lewis Mendis Abeynayake and Narayanapillai Thiagarajah both of Mutwal in Colombo, both of whom are also known to me, both of whom have signed these presents in English as “H. A. L. Mendis” and “N. T. Rajah” respectively, the subscribing witnesses hereto, the same was signed by the said executants and by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this Twenty-fourth day of February, One thousand Nine hundred and Thirty-nine. 30

I further certify and attest that in the original of page 1 line 13 of the word “Donor” was types over erasure, in page 2 lines 1 and 20 respectively the words “transfer” and “grand-daughter” were typed over erasure, page 3 line 13 the word “Imelda” was typed over erasure, before the foregoing instrument was signed as aforesaid, that the duplicate of this deed bears four stamps of the value of Rupees Three hundred and Twenty and the original a stamp of Re. 1 supplied by me.

Which I attest :

(Sgd.) K. RASANATHAN,

Notary Public. 40

Date of attestation : 24th day of February, 1939,

No. P 4
Deed No. 144

Exhibits

No. P4
Deed
No. 144
24-2-39

Prior Registration : A 156/241, A 97/203, A 87/150, A 198/80, A 249/138.
Registered : A 156/241, 97/203, 257/33, 198/80 and 257/34.

Colombo, 28th February, 1939.
(Sgd.) R. L.

TO ALL TO WHOM THESE PRESENTS SHALL COME, Chevalier Conganige Seraphim Antony, Justice of the Peace, Knight of St. Gregory the Great, of Whist Bungalow in Mutwal in Colombo :

10 Send Greetings :

WHEREAS the said Chevalier Conganige Seraphim Antony (hereinafter called "the Donor") is under and by virtue of Deeds Nos. 1079 dated 1st July, 1926, attested by S. A. Jayasekera of Colombo, Notary Public, No. 1198 dated 11th September, 1927 attested by S. A. Jayasekera of Colombo, Notary Public, No. 932 dated 28th December, 1916, attested by Geo. A. H. Wille of Colombo, Notary Public, No. 1428 dated 25th February, 1930, attested by S. A. Jayasekera of Colombo, Notary Public, and Certificate of Title of 27th February, 1918, granted in the District Court of Colombo Case No. 50676, seized and possessed of all those premises in the Schedule hereto fully described.

AND WHEREAS the said Donor is desirous of granting and assigning by way of gift unto his wife, Aludura Bridget Fernando Goonesekera, now known as Bridget Antony (hereinafter called and referred to as "the Donee") all those lands and premises in the Schedule hereto fully described subject to the conditions and restrictions hereinafter contained.

NOW KNOW YE AND THESE PRESENTS WITNESS that I the said Donor in pursuance of the said desire and in consideration of the natural love and affection which I have and bear unto my said wife, Aludura Bridget Fernando Goonesekera now known as Bridget Antony
30 and divers other good causes and considerations me hereunto specially moving, do hereby give grant transfer set over and assure by way of gift irrevocable unto her the said Donee all those lands and premises in the Schedule hereto fully described subject to the conditions and restrictions hereinafter contained, together with all and singular the appurtenances thereof or thereunto in anywise belonging or used or enjoyed therewith or reputed or known as part or parcel thereof and all the estate right title interest claim and demand whatsoever of me the said Donor in to upon or out of the said premises hereby gifted and assigned and all deeds and writings relating thereto.

40 TO HAVE AND TO HOLD the said premises hereby gifted and assigned unto her the said Donee subject to the following conditions and restrictions to wit :—

1. That the said Donee shall not sell mortgage or encumber the said premises hereby gifted or any part thereof or the rents profits and income

Exhibits
 No. P4
 Deed
 No. 144
 24-2-39
 —continued.

thereof but shall hold possess and enjoy the rents profits and income thereof during her lifetime and after her death the said premises shall devolve on and vest in my grand children by my son Simon Stock Antony in equal share absolutely and free of all conditions and restrictions.

2. That in the event of the said Donee selling mortgaging gifting disposing of by will or otherwise alienating the said premises or any part thereof or rents profits or income thereof or in the event of the said premises or any part thereof being seized or sold in execution of any debt default or miscarriage of the said Donee, then the said Donee shall forthwith lose her interest or benefit in the said premises and the same shall devolve on and vest in my grandchildren by my son Simon Stock Antony in equal shares and free of all conditions and restrictions.

AND I the said Donor for myself and my heirs executors and administrators covenant and declare with and to the said Donee that the premises hereby gifted are free from all encumbrances and that I and my aforewritten shall and will always warrant and defend title to the said premises and every part thereof unto the said Donee and her aforewritten against any person or persons whomsoever; and that I shall and will at all times hereafter at the request and cost of the said Donee or her aforewritten do and execute and or cause to be done and executed all such further and acts deeds matters and assurances whatsoever for the more perfectly assuring the said premises hereby gifted and every part thereof unto the said Donee and her aforewritten as by her or them shall or may be reasonably required. I the said Donor do hereby declare that the said premises are of the value of Rupees Thirty-five thousand (Rs. 35,000).

AND THESE PRESENTS FURTHER WITNESS that I the said Donee do hereby gratefully and thankfully accept the gift aforesaid subject to the conditions abovenamed.

IN WITNESS WHEREOF we the said Donor and Donee have hereunto and to two others of the same tenor and date as these presents set our respective hands at Colombo on this Twenty-fourth day of February, One thousand Nine hundred and Thirty-nine.

The Schedule above referred to

1. All that allotment of land called Timbirigahawatte together with the plantations and buildings standing thereon bearing assessment No. 3 and now No. 9 situated at Modera Street in Mutwal within the Municipality and in the District of Colombo Western Province, and bounded on the North-east by the property of Dinayadure Marsel Silva and others, on the South-east by the high road, and on the South-west and North-west by portions of this garden, containing in extent seven square perches (0A. 0R. 7P.) according to the plan thereof dated 10th November, 1871, and made by J. W. H. Smith, Surveyor.

2. All that portion of the land called Timbirigahawatte with the buildings standing thereon bearing assessment No. 2 and now No. 5

situated at Modera Street in Mutwal within the Municipality of Colombo Western Province, and bounded on the North-east and North-west by a portion of this land, on the South-east by the high road, and on the South-west by the land belonging to the late Wijemuni Jacob Soysa, containing in extent two ninety-five hundredths perches (0A. 0R. 2 95/100P.) according to the figure of survey dated 29th August, 1871, and made by Mr. John Frederick Smith, Surveyor.

Exhibits
No. P4
Deed
No. 144
24-2-30
—continued.

3. All that part of the house and garden bearing assessment No. 283, now No. 241, and presently bearing assessment No. 49, situated at Modera
10 within the Municipality and District of Colombo Western Province, bounded on the North (North-east) by the properties of W. Fernando and P. Valentine Silva, on the East (South-east) by the property of Slema Lebbe, on the West (North-west) by the property of Ossen Cakka, and on the South (South-west) by Madampitiya Road, containing in extent one rood and two perches (0A. 1R. 2P.) as described in the diagram or map annexed to the Fiscal's Transfer No. 5932 dated 22nd December, 1894, annexed to the original of these presents and dated 12th December, 1894, made by George De Saram, Fiscal's Licensed Surveyor, which said premises are according to a recent survey and plan thereof described as
20 follows, to wit :—

All that allotment of land with the buildings thereon formerly bearing assessment No. 283, now No. 241 and presently No. 49 situated at Madampitiya Road, in Modera within the Municipality and District of Colombo Western Province and bounded on the North-east by premises bearing assessment Nos. 239 of N. Don Andris Silva and No. 240 of A. Abilinu Fernando and another, on the South-east by premises bearing assessment No. 244 of P. T. Saika Marikar, on the South-west by Madampitiya Road and on the North-west by premises bearing assessment No. 238 of Ossen Saibo Samsudeen, containing in extent one rood and three square perches
30 according to the figure of Survey No. 1218 dated 7th September, 1912, made by H. G. Dias, Registered Licensed Surveyor and Leveller. (0A. 1R. 3P.).

4. An allotment of land called Timbirigahawatte with buildings bearing assessment No. 2 and presently bearing assessment Nos. 16 and 18, Temple Road, situated at Modera within the Municipality and District of Colombo, Western Province, bounded on the North-east by land claimed by C. S. Antony, South-east by premises No. 1 belongong to Eugin Silva, South-west by Temple Road, and North-west by the remaining portion of this land acquired by the Colombo Municipality, containing in extent
40 eleven and twenty-two hundredths perches (0A. 0R. 11 22/100P.) as per Plan No. 1767 dated 8th January, 1930, made by F. D. Amarasekera, Surveyor, which is the portion now remaining now after excluding the extent lately acquired from and out of the allotments called Timbirigahawatte, bounded on the North-east by the property of Ana Maria Soysa and others premises No. 7 belonging to the estate of the late Mr. J. S. Driberg and premises No. 3 of Micella Silva, South-east by premises No. 3 of Micella Silva premises Nos. 1 and 2 of C. M. Antony and Ana Maria Soysa and premises

Exhibits
 No. P4
 Deed
 No. 144
 24-2-39
 —continued.

No. 2 of Mr. D. Joseph Aresecularatne, South-west by Temple Road, and North-west by the properties of the Hindu Temple and Ana Maria Soysa and others, containing in extent 17 87/100 perches according to Plan No. 563 dated the 23rd November, 1908, made by H. G. Dias, Surveyor.

5. All that allotment of land with the buildings thereon bearing assessment No. 94, Maliban Street and No. 5 Norris Road and presently bearing assessment Nos. 26 and 28, Maliban Street and No. 69, Norris Road, situated at Maliban Street and Norris Road, Pettah, within the Municipality and District of Colombo, and bounded on the North-west by Maliban Street, on the South-west by the premises No. 95, Maliban Street 10 and premises No. 4, Norris Road of Christian Fernando, on the North-east by premises No. 93, Maliban Street, and premises No. 6, Norris Road, of Matchi Fernando, and on the South-east by Prince Road, containing in extent ten perches (0A. 0R. 10P.) according to the figure of survey dated 27th July, 1896, made by David Devapuraratne, Surveyor.

(Sgd.) C. S. ANTONY

„ BRIDGET ANTONY

Witnesses

(Sgd.) H. A. L. MENDIS

„ N. T. RAJAH

(Sgd.) K. RASANATHAN,

Notary Public.

I, Krishnapillai Rasanathan, of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument 20 having been duly read over and explained by me the said Notary to the within-named executants both of whom are well known to me, both of whom have signed these presents in English as “C. S. Antony” and “Bridget Antony” respectively in the presence of Hiddadura Lewis Mendis Abeynayake and Narayanapillai Thiagarajah both of Mutwal in Colombo, both of whom are also known to me, both of whom have signed these presents in English as “H. A. L. Mendis” and “N. T. Rajah” respectively, the subscribing witnesses hereto, the same was signed by the said executants and by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at 30 the same time at Colombo on this Twenty-fourth day of February, One thousand Nine hundred and Thirty-nine.

I further certify and attest that in the original and duplicate of page 1 line 14 the words “27th February, 1918, granted in “ were duly interpolated between the words “of” and “the” respectively; in the original of page 2 line 25 the word “Simon” was interpolated between the words “son” and “Stock”, in the original of page 3 line 4 the word “the” was interpolated between the words “I” and “said” in the original of page 4 lines 8 and 15 respectively the words “Modera” and “Smith” were typed over erasures; in duplicate of page 2 line 10 the word “and” 40 was interpolated between the words “claim” and “demand” and in the

duplicate of page 3 line 30 the word " and " was typed over erasure before the foregoing instrument was signed as aforesaid ; that the duplicate of this deed bears nine stamps of the value of Rupees Five hundred and sixty-three and the original a stamp of Re. 1 supplied by me.

Exhibits
No. P4
Deed
No. 144
24-2-39
—continued.

Which I attest :
(Sgd.) K. RASANATHAN,
Notary Public.

Date of attestation: 24th day of February, 1939.

No. P 5
Deed No. 145

10

No. P5
Deed
No. 145
24-2-39

Prior Registration : A 105/222, A 144/206, A 192/246, A 162/149, A 207/17,
A 257/43 A 139/42, A 253/252, and Badulla C 56/216.
Registered : C 56/216.

Badulla, 9th May, 1939.

No. 145

TO ALL TO WHOM THESE PRESENTS SHALL COME, Chevalier Conganige Seraphim Antony, Justice of the Peace, Knight of St. Gregory the Great, of " Whist Bungalow ", in Mutwal, Colombo (hereinafter called the " Vendor "):

20 **Sends Greeting :**

WHEREAS the said Vendor is under and by virtue of Deeds Nos. 1040 dated 4th September, 1911, attested by G. H. Philipsey of Colombo, Notary Public ; No. 817 dated 15th November, 1923, attested by S. A. Jayasekera of Colombo, Notary Public ; No. 944 dated 5th July, 1929, attested by S. J. C. Kadirgamer of Colombo, Notary Public ; No. 1511 dated 4th May, 1931, attested by S. A. Jayasekera of Colombo, Notary Public ; and Final Decree in Partition Case No. 124/Land of the District Court of Colombo dated 17th December, 1936; Certificate of Title No. 101 dated 12th September, 1938, granted in District Court of Colombo Case
30 No. 20/Land ; and Deed No. 1864 dated 5th January, 1935, attested by S. A. Jayasekera of Colombo, Notary Public, No. 239 dated 10th March, 1933, attested by D. F. De Silva of Colombo, Notary Public ; seized and possessed of all those lands and premises in the Schedule hereto fully described.

AND WHEREAS I the said Vendor have agreed with my wife, Alutdura Bridget Fernando Goonesekera, now known as Bridget Antony of Mutwal in Colombo for the absolute sale and assignment unto her of

Exhibits
 No. P5
 Deed
 No. 145
 24-2-88
 —continued.

the said lands and premises in the Schedule hereto fully described at or for the price or sum of Rupees Twenty-five thousand (Rs. 25,000) free of all encumbrances.

NOW KNOW YE AND THESE PRESENTS WITNESS that I, the said Vendor, do hereby in pursuance of the said agreement and for and in consideration of the said sum of Rupees Twenty-five thousand (Rs. 25,000) of lawful money of Ceylon well and truly paid to me by the said Alutdura Bridget Fernando Goonesekera now known as Bridget Antony (hereinafter called "the Vendee") (the receipt whereof I the said Vendor do hereby expressly admit and acknowledge) do hereby grant¹⁰ convey sell assign transfer set over and assure unto the said Vendee, her heirs executors administrators and assigns all those lands and premises in the Schedule hereto fully described together with the buildings trees and plantations thereon and all rights privileges easements servitudes and appurtenances whatsoever thereto belonging or in anywise appertaining or usually held used occupied or enjoyed therewith or reputed or known to be part parcel or member of the same and all the estate right title interest property claim and demand whatsoever of me the said Vendor of in to upon or out of the said premises and every part or portion thereof.

TO HAVE AND TO HOLD the said lands and premises in the²⁰ Schedule hereto fully described and hereby conveyed and transferred or expressed or intended so to be with all and singular the appurtenances whatsoever thereunto belonging or appertaining unto the said Vendee, her heirs executors administrators and assigns absolutely and for ever.

AND I the said Vendor for myself, my heirs executors and administrators covenant and declare to and with the said Vendee and her heirs executors administrators and assigns that the said lands and premises are free from all encumbrances whatsoever and that I the said Vendor have not at any time heretofore made done or committed or been party or privy to any act deed matter or thing whatsoever whereby or by means³⁰ whereof the title to the said lands and premises in the said Schedule hereto fully described or any part or portion thereof may be impeached or encumbered in title charge estate or otherwise howsoever and that I the said Vendor my heirs executors administrators shall and will always warrant and defend the title to the said lands and premises in the Schedule hereto fully described against any person or persons whomsoever and also shall and will at all times hereafter at the request and cost of the said Vendee or her aforewritten make do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things whatsoever for the better and more perfectly assuring and vesting⁴⁰ the said lands and premises in the Schedule hereto fully described in her the said Vendee and her heirs executors and administrators or assigns as by her or her aforewritten shall or may be reasonably required.

IN WITNESS WHEREOF I the said Vendor have hereunto and to two others of the same tenor and date as these presents set my hand at Colombo on this Twenty-fourth day of February, One thousand Nine hundred and Thirty-nine.

The Schedule above referred to

Exhibits

No. P5
Deed
No. 145
24-2-39
—continued.

1. All that allotment of land with the boutiques standing thereon bearing assessment No. 145, and now forming part of assessment No. 272, situate at Mutwal Street, in Mutwal within the Municipality and District of Colombo, Western Province, bounded on the North-east and South-east by the property bearing assessment No. 144 of Maria Catherina De Silva Goonesekera, on the South-west by the St. James' Church premises, and on the North-west by Mutwal Street, containing in extent three perches and fifty-six hundredths perches (0A. 0R 3 56/100P.) according to the said plan dated 8th August, 1911, made by the said John H. W. Smith,
10 Surveyor.

2. All that defined portion from and out of all that land called Ambagahawatte *alias* Mahawatte marked letter "A" coloured pink in the said plan and bearing assessment No. 144/3649, and now a portion of assessment No. 272, situate at Mutwal Street, in Mutwal within the Municipality and District of Colombo Western Province, bounded on the North-east by the other portion of this land now belonging to Mr. Alexander Mendis, South-west by the property of C. S. Antony, Esq., J.P., South-west by the property belonging to the St. James' Church, Mutwal, and by a portion of the same land bearing assessment No. 145, belonging to
20 C. S. Antony, Esq., J.P., and on the North-west by Mutwal Street, containing in extent ten and eighty-seven one hundredths square perches (0A. 0R. 10 87/100P.) which said plan bears No. 284, dated 5th November, 1923, made by A. F. A. Jayawardena, Surveyor.

3. An undivided one-fourth part or share from and out of all that allotment of land called Delgahawatte at one time bearing assessment No. 241, now No. 3323/19, St. James' Street, and presently bearing assessment Nos. 595 and 611, Alutmawatte Road, situate at Alutmawatte within the Municipality and District of Colombo Western Province, bounded on the North-east by the property of Ranulu Cosman Fonseka
30 and others and the property of Walimuni Simean Mendis and a road, on the South by the high road, on the South-west by the property of C. A. Lorensz, Esq., and on the North-west by the property of Samson De Abrew Rajapakse and another and the property of Ranulu Cosman Fonseka and others, containing in extent two acres two roods and twenty perches (2A. 2R. 20P.).

4. (a) All that divided one-third share of the land called Delgahawatte together with the plantations and the house standing thereon bearing assessment No. 23/3321, situate at St. James' Street, in Mutwal within the Municipality and District of Colombo, Western Province, bounded on
40 the North-east by the portion of this land belonging to Ranulu Daniel Fonseka, South-east by the one-third part of this land belonging to Sidoris Silva, South-west by a portion of this land belonging to Wijemuni Regina Soysa, and on the North-west by the one-third part of this land allotted to Hettiyadura Savariel Silva, containing in extent eight and a half square perches (0A. 0R. 8½P.) as per plan No. 1041 dated 25th November, 1917, made by J. H. W. Smith, Surveyor,

Exhibits
 No. P5
 Deed
 No. 145
 24-2-39
 —continued.

4. (b) All that divided one-third share of the land called Delgahawatte together with the plantations and the house standing thereon bearing assessment No. 21, situate at St. James' Street, aforesaid, bounded on the North-east by a portion of this land formerly belonging to Ranulu Daniel Fonseka and presently of Savariel Fonseka, South-east by the land formerly belonging to the estate of Belicheru Perera Mudaliyar presently of Alexander Seneviratne, South-west by the portion of this land belonging to Wijemuni Regina Soysa, and North-west by a portion of this land belonging to the heirs of Girigoris Silva, containing in extent eight and a half square perches (0A. 0R. 8½P.).

10

5. All that divided portion marked lot B in plan No. 2357 dated 18th June, 1936, made by H. Don David, Licensed Surveyor, together with the water-closet and the plantations standing thereon which said lot B is bounded on the North-west by lot A, on the North-east by St. James' Street, on the South-east by property of Mr. C. S. Antony, and on the South-west by property of Mr. C. S. Antony, and containing in extent twelve perches (0A. 0R. 12P.).

6. All that block of land with the buildings thereon bearing assessment No. 3319/26, St. James' Street, situated in the Kotahena Ward within the Municipal Limits of Colombo Western Province, bounded as follows: On the North by properties of Selestina Perera and Saran Silva bearing assessment Nos. 3315/27 and 3322/20 (1-9), on the East by properties of Saran Silva and A. Maria Fernando bearing assessment Nos. 3322/20 (1-9) and 3321/23 (1), on the South by properties of A. Maria Fernando and W. Elaris Silva bearing assessment Nos. 3321/23 (1) and 3320/22 (1-6A), and on the west by properties of W. Elaris Silva and Selestina Perera bearing assessment Nos. 3320/22 (1-6A) and 3315/27, containing in extent six perches and eight upon one hundredths of a perch (0A. 0R. 6 8/100.) according to plan No. 1798 dated 14th July, 1920, made by Municipal Surveyor, E. F. Daniel.

30

7. All that allotment of land called Gorakagahawatte situate at Alutmawatte Road, Mutwal, bearing assessment Nos. 462, 464 and 466 Alutmawatte Road aforesaid within the Municipality and District of Colombo Western Province, and bounded on the North-west by Alutmawatte Road, on the North-east by properties of H. James Silva, S. Don Lewis Perera and others, on the South-east by premises of Bloemendhal Mills, and on the South-west by premises of Bloemendhal Mills and Crown land, containing in extent one acre and thirty-one decimal two-five perches (1A. 0R. 31.25P.) according to the plan No. 2587 dated 12th July, 1937, made by H. Don David, Licensed Surveyor and Leveller.

40

8. All that land called Ambalamrawewatte together with the bungalow and furniture effects and other movables therein and the other buildings and plantations standing thereon situate at Kahagollegama in the Udukinda Maha Palata in the District of Badulla in the Province of Uva, and bounded on the East and South by Kanduwa, on the West and

North by Government patana and footpath, containing in extent two kurunies of kurakkan sowing or according to survey plan thereof No. 395 dated 28th February, 1903, four acres and sixteen perches (4A. 0R. 16P.).

Exhibits
No. P5
Deed
No. 145
24-2-39
—continued.

(Sgd.) C. S. ANTONY,

Witnesses :

1. N. T. RAJAH
2. H. L. MENDIS

(Sgd.) K. RASANATHAN,

Notary Public.

I, Krishnapillai Rasanathan of Colombo, in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument
10 having been duly read over and explained by me the said Notary to the within-named executant, who is well known to me, and who has signed this deed in English as “ C. S. Antony ” in the presence of Narayanapillai Thiagarajah and Hiddadura Lewis Mendis Abeynayake both of Mutwal in Colombo, both of whom have signed this deed in English as “ N. T. Rajah ” and “ H. L. Mendis ”, both of whom are also known to me the subscribing witnesses hereto, the same was signed by the said executant and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on
20 this Twenty-fourth day of February, One thousand Nine hundred and Thirty-nine.

I further certify and attest that the consideration mentioned herein was acknowledged to have been previously received by the executant from the Vendee ; that in the original of page 3 lines 10, 16, 20 and 34 the words “ her ”, “ or assigns ”, “ set ”, and “ from and ” respectively were typed over erasure ; page 4 line 25 the words “ De Abrew ” were typed over erasure ; page 6 line 28 in the word “ Ambalamrawatte ” the letters “ we ” were interpolated in ink so as to read as “ Ambalamrawewatte ” ; that in the duplicate of page 1 lines 14 and 15 the words “ 1936 ” and “ granted ” respectively were typed over erasure ; page 2 line 10 the words
30 “ reipt ” was struck off ; page 6 line 18 the word “ Perera ” was interpolated between the words “ Lewis ” and “ and ” and in line 24 in the word “ Ambalamrawatte ” the letters “ we ” were interpolated in ink so as to read as “ Ambalamrawewatte ” before the foregoing instrument was signed as aforesaid ; the duplicate of this deed bears six stamps of the value of Rupees Four hundred and seven and the original a stamp of Re. 1 which stamps were supplied by me.

Which I attest :

(Sgd.) K. RASANATHAN,

Notary Public.

40 Date of attestation : 24th day of February, 1939.

Exhibits
No. P6
 Deed
 No. 165
 26-6-39

No. P 6
Deed No. 165

Prior Registration : A 254/105, A 242/78.

No. 165

TO ALL TO WHOM THESE PRESENTS SHALL COME, Chevalier Conganige Seraphim Antony, Justice of the Peace, Knight of St. Gregory the Great, of Whist Bungalow, Mutwal in Colombo (hereinafter called the "Vendor") :

Send Greetings :

WHEREAS I the said Vendor am the lawful owner and proprietor¹⁰ and am seised and possessed of and otherwise well and sufficiently entitled to the lands and premises in the Schedule hereto fully described under and by virtue of Deed No. 389 dated 13th November, 1919, attested by C' E. J. Vandergert, Notary Public ; and Certificate of Title issued in proceedings No. 46781 of the District Court of Colombo dated 25th March, 1919.

AND WHEREAS the said Vendor has now agreed with Alutdura Bridget Fernando Goonesekera now known as Bridget Antony also of Mutwal in Colombo (hereinafter called the "Vendee") to sell and convey unto her the said Vendee all those lands and premises fully described in²⁰ the Schedule hereto at or for the price of sum of Rupees Two thousand (Rs. 2,000) subject to Mortgage Bond No. 745 dated 7th day of October, 1938, attested by A. B. Tillekeratne, Notary Public, in favour of the Ceylon State Mortgage Bank for a sum of Rupees Forty-five thousand (Rs. 45,000) (all interest paid up to date).

NOW KNOW YE AND THESE PRESENTS WITNESS that I, the said Vendor in pursuance of the aforesaid agreement and in consideration of the said sum of Rupees Two thousand (Rs. 2,000) of lawful money of Ceylon well and truly paid to me the said Vendor by the said Vendee (the receipt whereof I do hereby admit and acknowledge) do hereby grant³⁰ convey sell assign transfer set over and assure unto the said Alutdura Bridget Fernando Goonesekera now known as Bridget Antony her heirs executors administrators and assigns all those lands and premises fully described in the Schedule hereto together with all and singular the buildings trees plantations standing thereon and all rights privileges easements servitudes and appurtenances whatsoever thereto belonging to in anywise appertaining or usually held used occupied or enjoyed therewith or reputed or known to be part parcel or member of the same and all the estate right title interest claim demand property and benefit whatsoever of the said Vendor in to upon or out of the said lands and premises in the Schedule⁴⁰ hereto fully described and every part or portion thereof.

TO HAVE AND TO HOLD the said lands and premises fully described in the Schedule hereto hereby conveyed and transferred or expressed or intended so to be with all and singular the appurtenances whatsoever thereunto belonging or in anywise appertaining unto the said Alutdura Bridget Fernando Goonesekera now known as Bridget Antony her heirs executors administrators and assigns absolutely and for ever.

Exhibits
No. P6
Deed
No. 165
26-6-89
—continued.

AND I the said Vendor do hereby for myself my heirs executors and administrators covenant and declare to and with the said Vendee her heirs executors administrators and assigns that the said lands and premises hereby sold and transferred are besides Mortgage Bond No. 745 aforesaid, free from all other encumbrances charges liens or seizures whatsoever; that I the said Vendor have not at any time heretofore made or thing whatsoever or whereby or by means whereof the title to the said lands and premises in the Schedule hereto fully described or any part or portion thereof shall or may be impeached imperilled or encumbered in title charge estate or otherwise howsoever and that the said Vendor shall and will always warrant and defend the title to the said lands and premises fully described in the Schedule hereto and every part thereof, and shall and will at all times hereafter at the request cost and expense of the said Vendee or her heirs executors administrators and assigns make do execute or cause to be made done or executed all such further and other acts deeds matters assurances and things whatsoever for the better and more perfectly and effectually assuring and vesting the said lands and premises in the Schedule hereto fully described and hereby sold and conveyed transferred and every part or portion thereof in her the said Vendee and her aforewritten as by her the said Vendee or her aforewritten shall or may reasonably required.

IN WITNESS WHEREOF I the said Vendor have hereunto and to two others of the same tenor and date as these presents set my hand at Colombo on this Twenty-sixth day of June, One thousand Nine hundred and Thirty-nine.

The Schedule above referred to

1. An allotment of land with the buildings thereon formerly bearing assessment No. 988/12 but presently bearing assessment Nos. 69 and 71, Fifth Cross Street in Pettah within the Municipality and District of Colombo Western Province, bounded on the North by the property bearing assessment No. 987/13 of Adamjee Lukmanjee, on the East by Fifth Cross Street, on the South by the property bearing assessment No. 989/11 of Adamjee Kadiboy, and on the West by the property bearing assessment No. 862/52 of H. Matilda *alias* Mabel Fernando and others, containing in extent seven decimal twelve perches (0A. 0R. 7.12P.) according to the figure of survey No. 1267 dated 15th August, 1918, made by J. H. W. Smith, Licensed Surveyor.

2. All those four contiguous allotments of land forming one property with the buildings standing thereon formerly bearing assessment Nos. 39, 47A and 44 but presently bearing assessment Nos. 305, 305 (1-12, 14-17) and 289 Ferguson's Road, in Mattakuliya within the Municipality and

Exhibits
 No. P6
 Deed
 No. 165
 26-6-39
 —continued.

District of Colombo Western Province, bounded on the North by the property bearing assessment Nos. 52 of J. C. Fernando and others, No. 51 of W. C. Fernando, formerly of the garden of Galleradagey Thomas Fernando, Paternella Gomes, and Lawrence Markus, No. 50 of Paternella Markus, No. 48 of Charlotte Markus formerly of the late Batagodage Juan Fernando *alias* Gabriel Silva, No. 47 of the heirs of Abel Fernando, No. 46 of W. J. Fernando, Nos. 44 and 45A of F. S. Fonseka formerly by the garden of Louis Markus, No. 41 of M. A. Fernando formerly by part, No. 3 belonging to Salamon Fernando and Daniel Fernando, and No. 40 belong to Abraham Fernando and Daniel Fernando, on the East by Ferguson's Road, on the South by the grass field bearing assessment No. 38 of J. G. Abeyesinghe Mudaliyar formerly of Appuaratchi, and on the West by the property bearing assessment No. 120 of D. L. Markus formerly of Clara Fernando, containing in extent five acres two roods and thirty perches (5A. 2R. 30P.) according to survey plan dated 5th February, 1917, made by P. F. Goonesekera, Licensed Surveyor.

(Sgd.) C. S. ANTONY,

Witnesses :

1. N. THIAGARAJAH
2. A. D. WIMALASIRI

(Sgd.) K. RASANATHAN,

Notary Public. 20

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executant, who is known to me and who has signed this deed in English as "C. S. Antony" in the presence of Narayanapillai Thiagarajah of Mutwal and Attalage Don Wimalasiri of Maradana both of Colombo the subscribing witnesses hereto, both of whom are also known to me, both of whom have signed this deed in English as "N. T. Rajah" and A. D. Wimalasiri" the same was signed by the said executant and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this Twenty-sixth day of June, One thousand Nine hundred and Thirty-nine.

I further certify and attest that the consideration mentioned herein was paid by cheque No. R 178277 dated this day and drawn on Messrs. Thomas Cook & Son Ltd. (Bankers), that in the original and duplicate of page 1 line 16 respectively the words "also of Mutwal in Colombo" were duly interpolated between the words "Antony" and "hereinafter" that in the duplicate of page 3 line 8 of the words "and effectually" were interpolated between the words "perfectly" and "assuring" before the foregoing deed was signed as aforesaid: that the duplicate of this deed bears six (6) stamps of the value of Rupees Seven hundred and fifty-four and the original a stamp of Re. 1 supplied by me.

Which I attest :

(Sgd.) K. RASANATHAN,

Notary Public.

Date of attestation : 26th day of June, 1939.

No. P 7

Deed No. 166

Prior Registration : A 246/118, A 245/211, A 245/212.

Exhibits

No. P7

Deed
No. 166
26-6-89

No. 166

TO ALL TO WHOM THESE PRESENTS SHALL COME, Chevalier Conganige Seraphim Antony, Justice of the Peace, Knight of St. Gregory the Great, of Whist Bungalow in Mutwal in Colombo (hereinafter called the "Vendor") :

WHEREAS I the said Vendor am the lawful owner and proprietor
10 and am seised and possessed of and otherwise well and sufficiently entitled to the lands and premises in the Schedule hereto fully described hereto under and by virtue of Deed No. 689 dated 4th day of February, 1929, attested by O. P. Mount of Colombo, Notary Public, and Certificate of Title dated 12th day of June, 1918, issued in proceedings No. 47516 of the District Court of Colombo.

AND WHEREAS the said Vendor has now agreed with Alutdura Bridget Fernando Goonesekera now known as Bridget Antony also of Mutwal in Colombo (hereinafter called the "Vendee") to sell and convey
20 unto her the said Vendee all those lands and premises fully described in the Schedule hereto at or for the price or sum of Rupees Three thousand (Rs. 3,000) subject to Mortgage Bond No. 702 dated 23rd day of July, 1937, attested by A. B. Tillekeratne of Colombo, Notary Public in favour of the Ceylon State Mortgage Bank for a sum of Rupees One hundred thousand (Rs. 100,000) (all interest paid up to date).

NOW KNOW YE AND THESE PRESENTS WITNESS that I, the said Vendor in pursuance of the aforesaid agreement and in consideration of the said sum of Rupees Three thousand (Rs. 3,000) of lawful money of Ceylon well and truly paid to me the said Vendor by the said Vendee (the receipt whereof I do hereby admit and acknowledge) do hereby grant
30 convey sell assign transfer set over and assure unto the said Alutdura Bridget Fernando Goonesekera now known as Bridget Antony her heirs executors administrators and assigns all those lands and premises in the Schedule hereto fully described together with all and singular the buildings trees and plantations thereon and all rights and privileges easements servitudes and appurtenances whatsoever thereto belonging or in anywise appertaining or usually whatsoever thereto belonging or in anywise appertaining or usually held used occupied or enjoyed therewith or reputed or known to be part parcel or member of the same and all the estate right title interest claim demand property and benefit whatsoever of the Vendor
40 into upon or out of the said lands and premises in the Schedule hereto fully described and every part or portion thereof,

Exhibits
 No. P7
 Deed
 No. 166
 26-6-89
 —continued.

TO HAVE AND TO HOLD the said lands and premises fully described in the Schedule hereto hereby conveyed and transferred or expressed or intended so to be with all and singular the appurtenances whatsoever thereunto belonging or in anywise appertaining unto the said Alutdura Bridget Fernando Goonesekera now known as Bridget Antony her heirs executors administrators and assigns absolutely and for ever.

AND I the said Vendor do hereby for myself my heirs executors and administrators covenant and declare to and with the said Vendee her heirs executors administrators and assigns that the said lands and premises hereby sold and transferred are besides Mortgage Bond No. 702 aforesaid 10 free from all other encumbrances charges liens or seizures whatsoever: that I the said Vendor have at any time heretofore made done or committed or been party or privy to any act deed matter or thing whatsoever whereby or by means whereof the title to the said lands and premises in the Schedule hereto fully described or any part thereof or portion shall or may be impeached imperilled or encumbered in title charge estate or otherwise however and that I the said Vendor shall and will always warrant and defend the title to the said lands and premises fully described in the Schedule hereto and every part thereof and shall and will at all times hereafter at the request cost and expense of the said Vendee or her heirs 20 executors administrators and assigns make do execute or cause to be made or executed all such further and other acts deeds matters assurances and things whatsoever for the better and more perfectly and effectually assuring and vesting the said lands and premises in the Schedule hereto fully described and hereby sold and conveyed and transferred and every part or portion thereof in her the said Vendee and her aforewritten as by her the said Vendee or her aforewritten shall or may be reasonably required.

IN WITNESS WHEREOF I, the said Vendor have hereunto and to two others of the same tenor and date as these presents set my hand at Colombo on this Twenty-six day of June, One thousand Nine hundred 30 and Thirty-nine.

The Schedule above referred to

All those premises with the buildings standing thereon presently therein Nos. 22 and 24 (formerly No. 22 and before that No. 19) situated at Baillie Street in Fort within the Municipality and District of Colombo Western Province, bounded on the North by Baillie Street, and South by Globe Hotel premises bearing assessment Nos. 26 and 28, and on the West by premises No. 18, containing in extent twenty-two perches and fifty-six one hundredth of a perch (0A. 0R. 22 56/100P.) according to survey plan No. 1909 dated 20th June, 1937, made by S. Sabaratnam, 40 Licensed Surveyor, which said premises comprises or include the two

following contiguous allotments of land described in the title deeds in favour of the Mortgagor as follows :—

Exhibits
No. P7
Deed
No. 166
26-8-39
—continued.

- (a) the property and premises situate and lying in Ballie Street aforesaid, bounded on the North by the Baillie Street, on the East by the House of Raffa, on the South by the House of A. Perera, on the East by the House of Raffa, containing in extent nine perches and twenty-six one hundredths of a perch (0A. 0R. 9 26/100P.) according to survey dated 6th April, 1918, authenticated by Joseph Atkinson, Land Surveyor.
- 10 (b) the property and premises situate and lying in Ballie Street aforesaid, bounded on the North by Baillie Street, on the East by the House of Mr. Bletterman, on the South by the House of Mr. Dickson, and on the West by the House of Mr. Ebleenbeck, containing in extent eight perches and eighty-six one hundredths of a perch (0A. 0R. 8 86/100P.) according to the figure of survey dated 12th December, 1814, authenticated by G. Schneider, Acting Surveyor-General.

2. All that allotment of land with the buildings standing thereon presently bearing assessment Nos. 45 and 47, Fifth Cross Street (old No. 9) 20 in Pettah within the Municipality and District of Colombo, Western Province, bounded on the North by premises bearing assessment No. 10, belonging to the Trustee of the Borah Mosque, on the East by Fifth Cross Street, on the South by premises bearing assessment No. 8, belonging to the estate of the late Pelis Mohandiram, and on the West by premises bearing assessment No. 53 (Fourth Cross Street), belonging to C. S. Antony, containing in extent six perches and sixty-five one hundredths of a perch (0A. 0R. 6 65/100P.) according to survey No. 1109 dated 21st January, 1921, made by A. R. Savundranayagam, Licensed Surveyor.

3. All that allotment of land with the buildings standing thereon 30 presently bearing assessment No. 44 and 46 Fourth Cross Street (old No. 58) in Pettah aforesaid, bounded on the north by premises bearing assessment No. 57 belonging to the Trustees of the Borah Mosque, on the East by premises bearing assessment No. 9 (Fifth Cross Street) belonging to C. S. Antony, on the South by premises bearing assessment No. 59 belonging to W. E. Bastian, and on the West by Fourth Cross Street containing in, extent seven perches eighty-one one-hundredths of a perch (0A. 0R. 7 81/100P.) according to survey plan No. 1108 dated 21st January, 1921, made by A. R. Savundranayagam, Licensed Surveyor. (The above allotments of land being defined portions comprising all that allotment of land with 40 the buildings thereon formerly bearing assessment Nos. 58 and 9, situated between Fourth and Fifth Cross Streets in Pettah aforesaid, bounded on the North by the property belonging to the estate of the late William Fieul on the West by the New Canal, now Fifth Cross Street, on the South by the house which was occupied by the late Mr. Kronenberg, and on the

Exhibits
 No. P7
 Deed
 No. 166
 26-6-89
 —continued.

West by the Fourth Cross Street, containing in extent fifteen perches and twelve and one-hundredths of a perch (0A. 0R. 15 12/100P.) according to figure of survey dated 9th February, 1841 made by C. H. Schwallie, Surveyor, registered in A 133/114.

(Sgd.) C. S. ANTONY,

Witnesses :

1. N. T. RAJAH
2. A. D. WIMALASIRI

(Sgd.) K. RASANATHAN,
Notary Public.

I, Krishnapillai Rasanathan of Colonibo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument 10 having been duly read over and explained by me the said Notary to the within-named executant who is known to me and who has signed this deed in English as "C. S. Antony" and in the presence of Narayanapillai Thiagarajah of Mutwal and Attalage Don Winalasiri of Maradana, both of Colombo the subscribing witnesses hereto, both of whom are also known to me, both of whom have signed this deed in English as "N. T. Rajah" and "A. D. Wimalasiri" respectively the same was signed by the said executant and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this Twenty-six day of June, One thousand Nine 20 hundred and Thirty-nine.

I further certify and attest that the consideration mentioned herein was paid by cheque No. R 178278 dated this day and drawn on Messrs. Thomas Cook & Son Ltd. (Bankers) that in the original and duplicate of page 1 line 16 respectively the words "also of Mutwal in Colombo" were duly interpolated between the words "Antony" and "hereinafter" that in the duplicate of page 3 line 27 the words "on the east" were duly interpolated between the words "Street" and "and" before the foregoing instrument was signed as aforesaid; that the duplicate of this deed bears four (4) stamps of the value of Rupees One thousand six hundred 30 and fifty and the original one of Re. 1 all supplied by me.

Which I attest :
 (Sgd.) K. RASANATHAN,
Notary Public.

Date of attestation : 26th day of June, 1939.

No. P15
Will Signed by C. S. Antony

Exhibits
No. P15
Will signed
by C. S.
Antony
July 1989

P 15

This is the Last Will and Testament of me, Conganige Seraphim Antony, Justice of the Peace, and Knight of St. Gregory the Great, of Whist Bungalow, Mutwal in Colombo :

I hereby revoke all last wills and testaments and writings of a testamentary nature whatsoever, if any, heretofore made by me.

I hereby devise and bequeath all my property of what kind or nature 10soever, movable as well as immovable wherever found or situate in possession or expectancy in remainder or reversion nothing excepted to my wife, Aludura Bridget Fernando Goonesekera now known as Bridget Antony also of Whist Bungalow aforesaid.

I hereby appoint my said wife the executor of this my Last Will and Testament.

IN WITNESS WHEREOF I do hereunto and to another of the same tenor and date as these presents set my hand at Colombo on this day of July, One thousand Nine hundred and Thirty-nine.

Signed and declared by the abovenamed
20 Conganige Seraphim Antony as and for his
Last Will and Testament in the joint presence
of himself and us who at his request and in (Sgd.) C. S. ANTONY.
such joint presence have hereunto set our
hands as witnesses :

1. (Sgd.) Illegible.
- 2.

No. P 12
Power of Attorney No. 354

No. P12
Power of
Attorney
No. 354
14-5-48

No. 354

80 TO ALL TO WHOM THESE PRESENTS SHALL COME, I,
Conganige Seraphim Antony, Justice of the Peace and Knight of St.
Gregory the Great, of " Whist Bungalow " in Modera in Colombo, in the
Island of Ceylon :

WHEREAS I own considerable landed property in the said Island consisting of houses and lands and Whereas I am carrying on business under the name style and firm of " C. S. Antony & Company " at Modera in Colombo and Whereas I am ill and unable to look after and manage

Exhibits
 No. P12
 Power of
 Attorney
 No. 354
 14-5-48
 —continued.

my affairs for the moment and it has become necessary for me therefore to appoint some fit and proper person to manage my said business and my landed property aforesaid during my said illness.

NOW KNOW YE AND THESE PRESENTS WITNESS that I, the said Conganige Seraphim Antony, do hereby nominate constitute and appoint my son Simon Stock Antony of "Whist Bungalow" in Modera in Colombo my true and lawful attorney in the said Island to act for me and on my behalf and in my name and of my said firm for each and every or any of the following purposes, that is to say :

To ask demand sue for, recover and receive all sum and sums of money 10 debts goods chattels effects and things whatsoever now due owing and payable or belonging or which shall or may at any time hereafter become due owing and payable to me or my said firm or which my said attorney shall be advised that I or my said firm am or is entitled to.

To give make and execute valid and discharges and releases and receipts to all persons delivering or paying to my said attorney any money or property.

Before any Court or Courts of Justice of Ceylon to appear for me or my firm either as plaintiff defendant or intervenient and to prosecute or defend any suit or suits or other proceedings brought by or against me or 20 my said firm and to proceed to judgment and to admit any claim or claims which may be brought against me or my said firm in such Court or Courts as my said attorney shall think fit, and for the purpose to give all necessary securities and sign all necessary bonds for the prosecution of appeal if necessary.

To accept any process or processes which may from time to time being issued against me from any of the said Courts.

To sign all necessary proxy or proxies to my Proctor and the same from time to time to recall and revoke.

To let house or houses belonging to me or my said firm but shall not 30 have any power whatsoever to lease mortgage or alienate any one of my properties nor to sign any promissory notes.

To make draw and endorse cheques and orders for money for the purpose of drawing money from any of the Banks or Government Offices in Ceylon, and to operate on my Bank account with the Chartered Bank, of India, Australia & China, Colombo, and for the purpose to sign cheques on the said Bank on my behalf.

To prove any debt or debts due to me or my firm by any person who shall be adjudged an insolvent in any Court or Courts in the said Island and to do all things that may be necessary in that behalf and in those 40 proceedings to protect my interest.

And it is hereby expressly declared and agreed that as against me and my said firm and any person claiming under me or my said firm

every act deed matter or thing which my said attorney shall execute or do or cause to be done and executed in relation to any of the purposes aforementioned subsequent to the revocation of the powers conferred hereby shall be binding and conclusive of every person claiming the benefit of such act deed matter or thing who shall not prior to the execution or doing thereof have received notice of such revocation and it is hereby further declared that the powers hereby conferred shall remain in full force and virtue until I expressly revoke these presents by sufficient notice after I shall have recovered from my illness.

Exhibits
No. P12
Power of
Attorney
No. 354
14-5-48
—continued.

10 IN WITNESS WHEREOF, I, the said Conganige Seraphim Antony have hereunto and to two others of the same tenor and date as these presents set my hand at Colombo on this Fourteenth day of May, One thousand Nine hundred and Forty-three.

(Sgd.) C. S. ANTONY,

Witnesses :

1. E. B. SILVA
2. G. H. E. MENDIS

(Sgd.) K. RASANATHAN,
Notary Public.

20 I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executant who is known to me and who has signed this deed in English as "C. S. Antony" in the presence of Ettige Benedict de Silva of Ragama and George Hinton Edolphis Mendis of Mutwal in Colombo the subscribing witnesses hereto both of whom are known to me and both of whom have signed this deed in English as "E. B. Silva" and "G. H. E. Mendis" respectively the same was signed by the said executant and by the said witnesses and also by me the said Notary in my presence
30 and in the presence of one another all being present at the same time at Colombo on this Fourteenth day of May, One thousand Nine hundred and Forty-three.

I further certify and attest that the duplicate of this deed bears one stamp of Rs. 5 which was supplied by me.

Which I attest :
(Sgd.) K. RASANATHAN,
Notary Public.

Date of attestation : 14th day of May, 1943.

Exhibits

No. 2D4
Certificate of
Registration
of an
Individual
13-7-43

No. 2 D4

Certificate of Registration of an Individual

Certificate No. 18602

I hereby certify that the following statement, made in pursuance of the Business Names Ordinance (Cap. 120) was registered in the Office of the Registrar of Business Names for the Western Province, under number 18602 on the 9th day of June, 1943 :—

- | | | |
|---|--|----|
| 1. The Business Name : | C. S. Antony & Co. | |
| 2. The General Nature of the Business : | Exporters and Importers
and General Merchants | 10 |
| 3. The Principal Place of the Business : | 93, Modera Street, Colombo | |
| 4. The Date of the Commencement of the
Business, if the Business was com-
menced after Nov. 7, 1918 : | 1st June, 1943 | |
| 5. Any other Business Name or Names
under which the Business is carried on: | — | |
| 6. The present Name : | Simon Stock Antony | |
| 7. Any former Name of the Individual : | — | |
| 8. The Nationality of the Individual : | British | |
| 9. The Nationality of Origin of the Indi-
vidual, if not the same as the present
Nationality : | — | 20 |
| 10. The usual Residence of the Individual : | 93, Modera Street, Colombo | |

Dated at Moratuwa this 13th day of July, 1943.

(Sgd.) J. W. A. PERERA,
*Asst. Registrar of Business Names for the
Western Province.*

No. P2
Inventory in
D. C.
Colombo
Case No.
10451/T
26-1-44

No. P2

Inventory in D. C. Colombo Case No. 10451/T

INVENTORY

30

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Estate of the late Chev. C. S. Antony
of Modera in Colombo, deceased.

SIMON STOCK ANTONY of Whist Bungalow, Modera
in Colombo..... *Petitioner*

No. 10451/Testy.

Vs.

1. BRIDGET ANTONY of Colombo,
2. MARY IMELDA WEERASEKERA,
3. J. F. GOONESEKERA, all of Whist Bungalow, Modera
in Colombo Respondents.

Exhibits
No. P2
Inventory in
D. C.
Colombo
Case No.
10451/T
26-1-44
—continued.

ASSETS

Immovables

		Rs.	cts.
	1. Premises called and known as Bloemendhal Stores, situated at Bloemendhal Road ...	100,000	00
10	2. Premises called and known as Hendala Farm Estate in extent about fifty acres together with machinery and other Mill fittings situated at Hendala ...	50,000	00
	3. Premises called and known as "Whist Bungalow" in extent about four and a half acres situated at Modera Street ...	80,000	00
	4. Premises called and known as the "Nook" situated at Madampitiya ..	50,000	00
	5. Premises called and known as the "Hilland House" situated at Madampitiya Road ..	20,000	00
20	6. Premises called the "Tea Stores" bearing assessment No. 35, Madampitiya Road ...	15,000	00
	7. Premises bearing assessment Nos. 10 (1-7) and 12, Modera Street ...	10,000	00
	8. Premises bearing assessment Nos. 17 & 17A Modera Street ...	7,500	00
	9. Land called "Hendala Farm" Lot No. 3, together with the right of way in extent about 11 acres situated at Hendala ..	1,500	00
	10. Premises bearing assessment No. 510/1 Alutmawatte Road ...	2,000	00
80	11. Premises bearing assessment No. 305/1 Alutmawatte Road ...	500	00
	12. Premises No. 522/11, Alutmawatte Road ...	300	00
	13. Premises No. 702/50, Alutmawatte Road ...	300	00
	14. Field called "Welgollekumbura" situate at Kahagolle in Diyatalawa ...	550	00
	15. Field called "Wellgollekumbura" situate at Kahagolle in Diyatalawa half share ..	350	00
40	16. Field called "Welgollekumbura" situate at Kahagolle in Diyatalawa ..	350	00

Movables

		Rs.	cts.
	17. 300 Shares in the Aigburth Tea Co. ...	600	00
	18. 100 Shares in the Ceylon Insurance Co. ..	600	00
	19. Office furniture ..	300	00
	20. Motor Car No. X 811 ...	300	00

Exhibits				Rs.	cts.
No. P2	21.	Motor Car No. X 9107	...	600	00
Inventory in D. C. Colombo Case No. 10451/T 26-1-44 —continued.	22.	Lorry No. C 6170 ..	...	1,000	00
	23.	Van No. C. E. 1521	...	1,500	00
	24.	Household furniture ..	...	1,633	50
	25.	Tea Machinery including balances and other implements	...	4,378	50
	26.	Two Padda Boats ..	..	600	00
	27.	Two Single-barrel Guns	...	80	00
	28.	Two Bulls	...	100	00
	29.	Fibre Stock	...	420	00

Money Due on Bonds and Promissory Notes and Decrees, etc. 10

			Rs.	cts.
30.	Money due from E. R. Tambimuttu	...	1,500	00
31.	Money due from the Ceylon Benefit Co.	...	958	60
32.	Arrears of rent due	...	745	00
33.	Money due from M. D. D. Gunawardena on Bond No. 114 of 3-6-38 by K. Rasanathan, N. P.	...	74	50
34.	Money due from D. Cecilia Perera on Bond No. 146 of 26-2-39 by K. Rasanathan, N. P.	..	200	00
35.	Money due from M. M. Appuhamy and another on Bond No. 6431 and Pro-note	..	100	00 ²⁰
36.	Money due from B. A. Careem on Pro-note	..	55	00
37.	Money due from S. M. Rodrigo on Pro-note	...	25	00

Deposits in Cash with Others and Cash in Hand and Banks

			Rs.	cts.
38.	Deposits in H. M. Customs	...	250	00
39.	Deposit at C. T. O.	...	100	00
40.	Deposit at the Electrical Department	...	180	00
41.	Cash in hand	..	3,087	00
42.	Current Account deposit with the Chartered Bank of India, Australia & China in Account Nos. 2 and 3...	...	7,182	61 80

Total Assets Rs. .. 364,919 71

Debts Due by the Deceased

			Rs.	cts.
1.	Balance due to the Chartered Bank of India, Australia & China on overdraft in Account No. 1 thereof under the Decree in D. C. Colombo No. 10888/M...	...	97,218	08
2.	Money due to the Oriental Securities Ltd. on Mortgage of "Whist Bungalow"	..	21,000	00
3.	Money due to the Century Insurance Co.	..	2,090	66
4.	Funeral expenses	...	1,051	83 40
5.	Medical expenses and Doctor's bill outstanding at date of death	...	602	25

Bills Outstanding and Payable by the Deceased at date of Death.			Exhibits	
	Rs.	cts.	No. P2 Inventory in	
6. Messrs. W. & T. Avery Ltd. ...	12	00	D. C. Colombo	
7. Messrs. Cargo Boat Despatch Co. Ltd. ...	36	55	Case No. 10451/T	
8. Messrs. Examiner Press ...	18	30	26-1-44	
9. Mr. C. L. Macilamoney, March and April Petrol A/c. ...	150	25	—continued.	
10. Amount due to "Times of Ceylon" ...	42	50		
11. Amount due to the Government Electrical Dept., March and April bills ..	281	59		
10 12. The Postmaster-General ...	11	05		
13. The Postmaster-General, Telephone bill ...	24	70		
14. Messrs. the New Colombo Ice Co. Ltd. ...	22	98		
Total Liabilities Rs. ...	122,562	74		
Total Assets of the deceased	Rs. ...	364,919	71	
Total Liabilities payable by the deceased	Rs. ...	122,562	74	
Nett Value of Estate	Rs. ...	242,356	97	

I, Simon Stock Antony of "Whist Bungalow Modera Colombo, Administrator of the Estate of the late Chev. C. S. Antony, deceased, make oath and say as follows :—

20 1. To the best of my knowledge, information and belief, the above-written Inventory contains a full, true and correct account of all the property, movable and immovable, and rights and credits of the said Chev. C. S. Antony, deceased, so far as I have been able with due diligence to ascertain the same.

2. I have made a careful estimate and valuation of all the property the particulars of which are set forth and contained in the said Inventory and to the best of my judgment and belief the several sums respectively set opposite to the several items in the said Inventory fully and fairly represent the present values of the items to which they are so respectively
30 set opposite.

Signed and sworn to on this 26th day
of January, 1944, at Colombo

(Sgd.) S. S. ANTONY.

Before me :

(Sgd.) Illegible.
Commissioner of Oaths.

Exhibits

No. P18
Letter
19-12-45No. P 18
Letter

P 18

" Whist Bungalow,"
Mutwal, 19th December, 1945.

Dear Mr. Menon.

I write this letter with great pleasure. It was a pleasant surprise to me and all at home when uncle read your letter to us just now. Dear Mr. Menon, grandmother, uncle, auntie, the little ones and I join in wishing you a "Very Happy Birthday and many happy returns of the day". May God bless you and spare you for many happy long years. Edith, 10 C. P. Antony's daughter is also here and she too sends her best wishes for your B.-day.

I am sure that you and Mrs. Menon will be glad to hear that I was 21 on the 15th of December, and I had a grand party to which two hundred or more were present. My stepmother married Dr. Vandort were also present. There was dancing too, and when the party broke off it was midnight, how nice it would have been if you all were also present.

How is dear little baby, I speak of her very often. Must be quite a big girl now. I wonder if she remembers me. I am sure Mrs. Menon is in the best of health, please convey my love and kind remembrance to 20 her.

Uncle and auntie have another little baby girl and she is the picture of grandfather.

Dear Mr. Menon I shall end this letter with kind regards to you, Mrs. Menon and baby.

Yours sincerely,
(Sgd.) IMELDA WEERASEKERE.

No. P8
Deed
No. 657
28-2-46No. P 8
Deed No. 657

Prior Registration : A 254/106, A 242/78, A 246/118, A 245/211, and 30
A 245/212.

Registered : A 259/229, 255/106, A 246/118 and 299/68 and 69.

P 8

Colombo, 5th March, 1946.

No. 657

TO ALL TO WHOM THESE PRESENTS SHALL COME, I, Alaudura Bridget Fernando Goonesekera, now known as Bridget Antony of the " Whist Bungalow " in Mutwal in Colombo.:

Send Greetings :

WHEREAS the said Aludura Bridget Fernando Goonesekera, now known as Bridget Antony (hereinafter called " the Donor ") is under and 40 by virtue of Deed Nos. 165 and 166 both dated the 26th day of June,

1939, and both attested by the Notary attesting these presents, seized and possessed of all those premises in the Schedule hereto fully described.

Exhibits

No. P8

Deed

No. 657

28-2-46

—continued.

AND WHEREAS the said Donor is desirous of granting and assigning by way of gift unto her son SIMON STOCK ANTONY (hereinafter called and referred to as "the Donee") all those lands and premises in the Schedule hereto fully described subject to the conditions and restrictions hereinafter contained.

NOW KNOW YE AND THESE PRESENTS WITNESS THAT I the said Donor in pursuance of the said desire and in consideration of the
 10 natural love and affection which I bear unto my son the said SIMON STOCK ANTONY and divers other good causes and consideration hereunto specially moving do hereby give grant transfer set over and assure by way of gift irrevocable unto him the said Donee all those lands and premises in the Schedule hereto fully described subject to the conditions and restrictions hereinafter contained, together with all and singular the rights privileges easements servitudes and appurtenances thereof or thereunto in anywise belonging to or used or enjoyed therewith or reputed or known as part or parcel thereof and all the estate right title interest claim demand whatsoever of me the said Donor into upon or out of the said
 20 premises hereby gifted and assigned and all deeds and writings relating thereto.

TO HAVE AND TO HOLD the said lands and premises which are of the value of Rupees Two hundred thousand (Rs. 200,000), hereby gifted and assigned unto him the said Donee subject to the following conditions and restrictions, to wit :—

(1) THAT THE SAID DONEE shall not sell mortgage or otherwise alienate the said premises or any part thereof or the rents profits or income thereof, but shall only possess and enjoy the rents profits and income thereof during his lifetime and that after his death the said lands and
 30 premises shall devolve on and vest in the Donee's children in equal shares subject to the aforesaid conditions and restrictions.

(2) THAT IN THE EVENT of the said premises or any part thereof or the rents profits or income thereof being seized or sold in execution of any debt or default or miscarriage of the Donee, then the said Donee shall forthwith lose his interest in the said premises and every part thereof and the said premises and every part thereof shall forthwith devolve in and vest in the children of the said Donee subject to the conditions contained in this clause too, and those in clause one above.

AND I the said Donor for myself and my heirs executors and adminis-
 40 trators covenant and declare with and to the said Donee that the premises hereby gifted are free from all encumbrances and that I and my aforewritten shall and will always warrant and defend title to the said premises and every part thereof unto the said Donee and his aforewritten against any person or persons whomsoever and that I shall and will at all times hereafter at the request and costs of the said Donee or his aforewritten do

Exhibits
 No. P8
 Deed
 No. 657
 28-2-46
 —continued.

and executed all such further and other acts deeds matters and assurances whatsoever for the more perfectly assuring the said Donee and his aforewritten as by him or them shall or may be reasonably required :

AND THESE PRESENTS FURTHER WITNESS that I the said Donee do hereby gratefully and thankfully accept the gift aforesaid subject to the conditions abovenamed.

IN WITNESS WHEREOF WE, the said Donor and Donee have hereunto and to two others of the same tenor and date as these presents set our respective hands at COLOMBO on this Twenty-eighth day of February, One thousand Nine hundred and Forty-six.

10

The Schedule above referred to

1. An allotment of land with the buildings thereon formerly bearing assessment No. 988/12 but presently bearing assessment No. 69 and 71, Fifth Cross Street in Pettah within the Municipality and District of Colombo Western Province, bounded on the North by the property bearing assessment No. 987/13 of Adamjee Lukmanjee, on the East by Fifth Cross Street, on the South by the property bearing assessment No. 989/11 of Adamjee Kadibhoy, and on the West by the property bearing assessment No. 862/52 of H. Matilda *alias* Mabel Fernando and others, containing in extent seven decimal twelve perches (0A. 0R. 7.12P.) according to the figure of Survey No. 1267 dated 15th August, 1918, made by J. H. W. Smith, Licensed Surveyor.

2. All those four contiguous allotments of land forming one property with the buildings standing thereon formerly bearing assessment Nos. 39, 47A and 44 but presently bearing assessment Nos. 305, 305 (1-12, 14-17) and No. 289 Ferguson's Road, in Mattakkuliya within the Municipality and District of Colombo Western Province, bounded on the North by the property bearing assessment No. 52 of J. C. Fernando and others, No. 51 of W. C. Fernando, formerly by the Garden of Galleradegey Thomas Fernando, Peternella Gomes and Lawrence Markus, No. 50 of Peternella Markus of No. 48 of Charlotte Markus formerly of the late Batagodage Juan Fernando, *Alias* Gabriel Silva No. 47 of the heirs of Abel Fernando No. 46 of W. J. Fernando, No. 44 and 45A of F. S. Fonseka formerly of the garden of Louis Markus, No. 41 of M. A. Fernando formerly by part No. 3 belonging to Salomon Fernando and Daniel Fernando and No. 40 belonging to Abraham Fernando and Daniel Fernando, on the East by Ferguson's Road, on the South by the grass field bearing assessment No. 38 of J. G. Abeyesinghe Mudaliyar formerly of Appuaratchi, and on the West by the property bearing assessment No. 120 of D. L. Markus formerly of Clara Fernando containing in extent five acres two roods and thirty perches (5A. 2R. 30P.) according to survey plan dated 5th February, 1917, made by P. F. Goonesekera, Licensed Surveyor.

3. All those premises with the buildings standing thereon presently bearing Nos. 22 and 24 (formerly No. 22 and before that No. 19) situated at Baillie Street Fort within the Municipality and District of Colombo

Western Province, bounded on the North by Baillie Street, and on the East and South by Globe Hotel premises bearing assessment Nos. 26 and 28, and on the West by premises No. 18, containing in extent twenty-two perches and fifty-six one hundredth of a perch (0A. 0R. 22 56/100P.) according to Survey Plan No. 1909 dated 20th June, 1937, made by S. Saba-Ratnam, Licensed Surveyor.

Exhibits
No. P8
Deed
No. 657
28-2-46
—continued.

4. All that allotment of land with the building standing thereon presently assessment Nos. 45 and 47 Fifth Cross Street (old No. 9) in Pettah within the Municipality and District of Colombo, Western Province bounded on the North by premises bearing assessment No. 10 belonging to the Trustees of the Borah Mosque, on the East by Fifth Cross Street, on the South by premises bearing assessment No. 8 belonging to the estate of the late Pelis Mohandiram, and on the West by premises bearing No. 58 (Fourth Cross Street), belonging to C. S. Antony, containing in extent six perches and sixty-five one hundredth of a perch (0A. 0R. 6 65/100P.) according to survey No. 1109 dated 21st January, 1921, made by A. R. Savundranayagam, Licensed Surveyor.

5. All that allotment of land with the buildings standing thereon presently bearing assessment Nos. 44 and 46 Fourth Cross Street (old No. 58) in Pettah aforesaid, bounded on the North by premises bearing assessment No. 57, belonging to the Trustees of the Borah Mosque, on the East by premises bearing assessment No. 9 (Fifth Cross Street) belonging to C. S. Antony, on the South by premises bearing assessment No. 59 belonging to W. E. Bastian, and on the West by Fourth Cross Street, containing in extent seven perches eighty-one one hundredth of a perch (0A. 0R. 7 81/100P.) according to survey plan No. 1108 dated 21st January, 1921, made by A. R. Savundranayagam, Licensed Surveyor.

(Sgd.) BRIDGET ANTONY,
,, S. S. ANTONY

Witnesses :

- 30 1. A. J. FERNANDO
2. A. D. WIMALASIRI

(Sgd.) K. RASANATHAN,
Notary Public.

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named Donor and Donee respectively both of whom are well known to me and who have signed these presents in English as "Bridget Antony" and "S. S. Antony" respectively in the presence of Alagiyadura James Fernando and Attalage Don Wimalasiri both of Mutwal in Colombo the 40 subscribing witnesses hereto both of whom are also known to me and who have signed these presents in English as "A. J. Fernando" and "A. D.

Exhibits
No. P8
Deed
No. 657
28-2-46
—continued.

Wimalasiri ” respectively the same was signed by the said executants and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this Twenty-eighth day of February, One thousand Nine hundred and Forty-six.

I further certify and attest that the duplicate hereof bears seven stamps of the value of Rs. 3,203 while the original bears a stamp of the value of Re. 1 all of which were duly supplied by me ; that in the original of page 2 line 2 and duplicate of page 1 line 26 the words “ rights privileges easements servitudes and ” were duly interpolated between the words “ the ” and “ appurtenances ” that in the original of page 5 line 5 and duplicate of page 4 line 16 the words “ on the east and ” were duly interpolated between the words “ and ” and “ south ” before the foregoing instrument was signed as aforesaid.

Which I attest :
(Sgd.) K. RASANATHAN,
Notary Public.

Date of attestation : 28th day of February, 1946.

No. P22
Register of
Applications
for Searches
25th March
to 12th April
1946

P 22

Register of Applications for Searches

20

Application Number	Date	Name of Applicant	Stamp Duty Rs.	When Attended to	Initials of Registrar	
1835	25-3-46	G. A. Nissanker	1/-	25-3	D. A. W.	
1836	”	de Silva & Mendis	1/-		D. A. W.	
1837	”	L. L. Fonseka	1/-		D. A. W.	
1838	”	D. J. R. Gunawardena	1/-		D. A. W.	
1839	”	John Wilson	1/-		D. A. W.	
1840	”	K. B. Perera	1/-		D. A. W.	30
1841	”	C. S. de S. Seneviratne	1/-		D. A. W.	
1842	”	E. A. Jayasekera	1/-	25-8	D. A. W.	
1843	”	G. C. E. Pieris	1/-		D. A. W.	
1844	”	D. H. Biyanwila	1/-		D. A. W.	
1845	”	S. P. Suriyapperuma	1/-		D. A. W.	
1846	”	D. J. B. Gomes	1/-		D. A. W.	
1847	”	W. L. P. Amaratunga	1/-		D. A. W.	
1848	”	G. E. Weerakkody	1/-		D. A. W.	
1849	”	A. H. Seneviratne	1/-		D. A. W.	
1850	26-3-46	E. L. W. Aponsu	1/-		D. A. W.	40
1851	”	John Wilson	1/-		D. A. W.	
1852	”	D. G. R. de S. Abayagunasekara	1/-		D. A. W.	
1853	”	N. J. S. Cooray	2/-		D. A. W.	
1854	”	D. F. de Silva	3/-		D. A. W.	
1855	”	W. Siman Appu	1/-		D. A. W.	
1856	”	J. S. Gunawardena	2/-		D. A. W.	
1857	”	S. D. W. Nagel	1/-		D. A. W.	

Application		Name of Applicant	Stamp When	Initials of Registrar	Exhibits
Number	Date		Duty Attended to		
			Rs.		
1858	26-3-46	S. M. C. de Soyza	1/-	D. A. W.	No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.
1859	"	D. E. Edirisinghe	1/-	D. A. W.	
1860	"	Valentine S. Perera	1/-	D. A. W.	
1861	"	D. C. Ranasinghe	1/-	D. A. W.	
1862	"	S. Vallipuram	1/-	D. A. W.	
10 1863	"	J. S. Wijayasekera	2/-	D. A. W.	
1864	"	C. A. S. Mather	2/-	D. A. W.	
1865	"	W. Siman Appu	1/-	D. A. W.	
1866	"	L. L. B. Cabral	1/-	D. A. W.	
1867	"	A. C. Abeyawardena	1/-	D. A. W.	
1868	"	I. D. M. Fernando	1/-	D. A. W.	
1869	"	D. S. Ganegoda	1/-	D. A. W.	
1870	"	W. Siman Appu	1/-	D. A. W.	
1871	"	S. A. Nalliah	1/-	D. A. W.	
1872	"	M. O. Fernando	2/-	D. A. W.	
20 1873	"	A. E. Rosa	2/-	D. A. W.	
1874	"	K. Don Charles	1/-	D. A. W.	
1875	"	K. Don William	1/-	D. A. W.	
1876	"	P. E. S. Wijesekera	1/-	D. A. W.	
1877	"	D. M. Galhena	1/-	D. A. W.	
1878	"	W. A. Gunawardena	1/-	D. A. W.	
1879	"	J. M. Caderamanpillai	1/-	D. A. W.	
1880	"	N. V. T. Cooray	3/-	D. A. W.	
1881	"	H. R. Goonewardena	2/-	D. A. W.	
1882	"	W. F. Wijesekera	4/-	D. A. W.	
30 1883	"	Do.	3/-	D. A. W.	
1884	"	C. de Saram	2/-	D. A. W.	
1885	"	D. M. Galhena	1/-	D. A. W.	
1886	"	N. V. T. Cooray	1/-	D. A. W.	
1887	27-3-46	E. R. de Silva	1/-	27-3 D. A. W.	
1888	"	H. D. C. Gunasekera	1/-	D. A. W.	
1889	"	A. H. Seneviratne	1/-	D. A. W.	
1890	"	W. Rajapakse	1/-	D. A. W.	
1891	"	P. P. Ranasinghe	1/-	D. A. W.	
1892	"	D. A. S. Amaratunga	1/-	D. A. W.	
40 1893	"	D. D. Marshal	2/-	D. A. W.	
1894	"	S. D. W. Nagel	1/-	D. A. W.	
1895	"	M. J. Perera	1/-	D. A. W.	
1896	"	D. A. S. Amaratunge	1/-	D. A. W.	
1897	"	J. P. Perera	1/-	D. A. W.	
1898	"	A. J. Wijesinghe	1/-	27-3 D. A. W.	
1899	"	D. B. Jayaratna	1/-	D. A. W.	
1900	"	S. A. S. Hami	3/-	D. A. W.	
1901	"	P. P. Ranasinghe	1/-	D. A. W.	
1902	"	R. C. Perera	1/-	D. A. W.	
50 1903	"	H. J. Fernando	1/-	D. A. W.	
1904	"	D. B. Jayaratna	1/-	D. A. W.	
1905	"	D. P. Samarajeewa	1/-	D. A. W.	
1906	"	D. B. Jayaratna	1/-	D. A. W.	
1907	"	E. A. de Silva	1/-	D. A. W.	
1908	"	K. J. R. Kuruppu	2/-	D. A. W.	

Exhibits No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.	Application		Name of Applicant	Stamp	When	No. of Lands to	Initials of Registrar
	Number	Date		Duty	Attended			Rs.	Rs. c.
	1909	27-3-46	A. M. Mohamed	1/-	27-3		D. A. W.
	1910	..	D. Don Joseph	1/-			D. A. W.
	1911	..	K. D. E. Wijewardena	1/-			D. A. W.
	1912	..	Arthur S. Fernando	1/-			D. A. W.
	1918	..	F. J. & G. de Saram	1/-	29-3	16 4.25	D. A. W.
	1914	..	E. W. P. Weerasinghe	1/-	27-8		D. A. W. 10
	1915	..	M. N. M. Saleem	1/-			D. A. W.
	1916	..	F. J. & G. de Saram	1/-			D. A. W.
	1917	..	Arthur S. Fernando	1/-			D. A. W.
	1918	..	F. J. & G. de Saram	1/-			D. A. W.
	1919	..	S. Gunasekera	1/-			D. A. W.
	1920	..	B. W. de Silva	1/-			D. A. W.
	1921	..	Arthur S. Fernando	2/-			D. A. W.
	1922	..	M. M. A. Raheem	1/-			D. A. W.
	1928	..	D. B. Jayaratna	2/-			D. A. W.
	1924	..	J. J. Weinman	1/-			D. A. W. 20
	1925	..	H. Leo Perera	1/-			D. A. W.
	1926	..	H. D. Perera	1/-			D. A. W.
	1927	..	M. O. Fernando	1/-			D. A. W.
	1928	..	Arthur S. Fernando	1/-			D. A. W.
	1929	..	V. A. P. Nanayakkara	1/-			D. A. W.
	1930	..	B. W. Perera	1/-			D. A. W.
	1931	..	M. O. Fernando	2/-			D. A. W.
	1932	..	D. B. Jayaratne	1/-			D. A. W.
	1938	..	C. M. Kumaravelpillai	1/-			D. A. W.
	1984	28-3-46	J. H. M. Fernando	1/-	28-3		D. A. W. 80
	1985	..	E. Y. Wijeyasenaratna	2/-			D. A. W.
	1986	..	F. J. Boteju	1/-			D. A. W.
	1987	..	E. J. Silva	1/-			D. A. W.
	1988	..	D. M. Galhena	1/-			D. A. W.
	1989	..	T. D. D. W. Seneviratne	1/-			D. A. W.
	1940	..	V. T. Fernando	1/-			D. A. W.
	1941	..	A. M. Feuard	3/-			D. A. W.
	1942	..	D. A. S. Wijesinghe	1/-			D. A. W.
	1943	..	K. S. P. Abeysekera	3/-		5 2.50	—*
	1944	..	K. A. K. Piyadasa	1/-	28-4		— 40
	1945	..	B. S. Wickremaratna		28-3		D. A. W.

* Sent to R. R. for return as no action has to be taken on 2-4-46,

Application		Name of Applicant	Stamp	When	Initials of Registrar	Exhibits No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.
Number	Date		Duty Rs.	Attended to		
1946	28-3-46	W. D. N. Selvadurai	1/-		D. A. W.	
1947	"	S. A. Villavarayan	1/-		D. A. W.	
1948	"	Do.	1/-		D. A. W.	
1949	"	E. W. P. Weerasinghe	1/-		D. A. W.	
1950	"	T. R. de Alwis	1/-		D. A. W.	
1951	"	M. T. Basnayake	1/-		D. A. W.	
10 1952	"	H. E. Wijetunge	1/-		D. A. W.	
1953	29-3-46	John Wilson	1/-	29-3	D. A. W.	
1954	"	H. D. C. Gunasekera	1/-		D. A. W.	
1955	"	J. M. Pereira	2/50		D. A. W.	
1956	"	D. A. P. S. Samarawickrema	1/-		D. A. W.	
1957	"	T. C. P. Goonewardena	1/-		D. A. W.	
1958	"	H. M. Peiris	1/-		D. A. W.	
1959	"	T. L. Martenstyn	1/-		D. A. W.	
1960	"	F. J. & G. de Saram		11/9-4-46	J. P. V.	
1961	"	W. L. P. Amaratunga	3/-	29-3	D. A. W.	
20 1962	"	A. R. M. Razeem	1/-	"	D. A. W.	
1963	"	A. Clive Abeywardena	1/-		D. A. W.	
1964	"	H. R. Goonewardena	1/-		D. A. W.	
1965	"	G. E. Weerakkody	2/-		D. A. W.	
1966	"	S. Lazarus Fernando	1/-		D. A. W.	
1967	"	S. A. S. Hamid	1/-		D. A. W.	
1968	"	R. Jeremiah	3/-		D. A. W.	
1969	"	F. J. & G. de Saram	1/-		D. A. W.	
1970	"	Do.	1/-		D. A. W.	
1971	"	M. S. M. Shabdeen	1/-		D. A. W.	
30 1972	"	Do.	2/-		D. A. W.	
1973	"	D. C. E. V. Karunaratne	1/-		D. A. W.	
1974	"	S. L. Fernando	1/-		D. A. W.	
1975	"	D. J. J. Perera	1/-		D. A. W.	
1976	"	D. R. Seneviratne	1/-		D. A. W.	
1977	"	M. S. M. Shabdeen	1/-		D. A. W.	
1978	"	J. P. Salgado	1/-		D. A. W.	
1979	"	S. Wickremasinghe	1/-		D. A. W.	
1980	"	C. C. Stembo	1/-		D. A. W.	
1981	"	D. L. Gunasekera	1/-		D. A. W.	
40 1982	"	W. F. Wijeyasekaram	2/-		D. A. W.	
1983	"	Fred. G. de Silva	1/-		D. A. W.	
1984	"	C. C. Stembo	3/-		D. A. W.	
1985	"	A. C. C. Haseem	1/-		D. A. W.	
1986	"	D. L. & F. de Saram	1/-		D. A. W.	
1987	"	F. G. Jayatileke	1/-		D. A. W.	
1988	"	S. Wickramasinghe	2/-		D. A. W.	
1989	"	Do.	1/-		D. A. W.	
1990	"	A. C. A. Haseem	1/-		D. A. W.	
1991	"	C. R. de Alwis	1/-		D. A. W.	
50 1992	"	S. Wickremasinghe	1/-		D. A. W.	
1993	"	Do.	1/-		D. A. W.	
1994	"	W. F. Wijeyasekera	1/-	29-3	D. A. W.	
1995	"	W. A. Gunawardena	1/-		D. A. W.	
1996	"	A. C. d'Haseet	1/-		D. A. W.	
1997	"	N. V. T. Cooray	1/-		D. A. W.	
1998	30-3-46	C. de Saram	1/-		D. A. W.	
1999	"	K. E. Alwis	2/-		D. A. W.	

Exhibits	Application		Name of Applicant	Stamp Duty Rs.	When Attended to	Initials of Registrar
No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.	Number	Date				
	2000	30-3-46	L. D. S. Jayasinghe	3/-		D. A. W.
	2001	"	T. K. H. Deen	1/-		D. A. W.
	2002	"	Do.	1/-		D. A. W.
	2003	"	C. L. W. Aponsu	1/-		D. A. W.
	2004	"	M. B. K. Senaratna	1/-		D. A. W.
	2005	"	D. A. S. Wijayasinghe	1/-		D. A. W.
	2006	"	E. R. de Silva	1/-		D. A. W. 10
	2007	"	D. R. de S. Abeynayake	1/-		D. A. W.
	2008	"	Do.	1/-		D. A. W.
	2009	"	Arthur Fernando	1/-		D. A. W.
	2010	"	P. Abraham	1/50		D. A. W.
	2011	"	A. L. M. Thassim	1/-		D. A. W.
	2012	"	A. P. Gunatilake	1/-		D. A. W.
	2013	"	D. J. Paul Perera	2/-		D. A. W.
	2014	"	L. A. Jayasekara	1/-		D. A. W.
	2015	"	S. Somasundaram	2/-		D. A. W.
	2016	"	S. L. Moonesinghe	1/-		D. A. W. 20
	2017	"	A. M. D. R. Jayamanne	1/-		D. A. W.
	2018	"	K. V. A. Perera	2/-		D. A. W.
	2019	"	L. A. Jayasekera	1/-		D. A. W.
	2020	"	P. P. Jayawardena	2/-		D. A. W.
	2021	"	K. Rasanathan	1/-		D. A. W.
	2022	"	K. Rasanathan	1/-		D. A. W.
	2023	"	A. L. M. Thasim	1/-		D. A. W.
	2024	"	M. P. P. Somasinghe	1/-		D. A. W.
	2025	"	D. J. Paul Perera	1/-		D. A. W.
	2026	"	N. V. T. Cooray	1/-		D. A. W. 30
	2027	"	C. V. Welikala	1/-		D. A. W.
	2028	"	R. Hewagama	1/-		D. A. W.
	2029	"	N. V. T. Cooray	1/-	29-8	D. A. W.
	2030	"	C. W. K. Pillai	1/-		D. A. W.
			Stamps on applications	... Rs.	871-00	
			Searching Fees	... "	10-75	
				Rs.	881-75	
			Number of years' search received	...	10	
			Previous balance	...	11	
			Total	...	21	40
			Search work done	...	13	
			Balance	...	8	
			Number of Land received	...	18	
			Done	...	17	
			Balance	...	1	
	2081	1-4-46	A. H. Seneviratne	1/-		D. A. W.
	2082	"	G. C. E. Peiris	1/-		D. A. W.
	2083	"	A. V. Fernando	1/-		D. A. W.
	2084	"	G. C. E. Peiris	3/-		D. A. W.
	2085	"	C. L. W. Aponsu	1/-		D. A. W. 50
	2086	"	S. D. W. Nagel	1/-		D. A. W.
	2087	"	H. Welivitiigoda	2/-		D. A. W.
	2088	"	D. L. Rajapakse	1/-		D. A. W.
	2089	"	A. L. M. Thassim	1/-		D. A. W.
	2040	"	J. S. Gunawardena	1/-		D. A. W.
	2041	"	D. T. Ramanayake	1/-		D. A. W.
	2042	"	H. Welivitiigoda	1/-		D. A. W.
	2043	"	C. de Saram	1/-		D. A. A.
	2044	"	R. L. Abayawardena	2/-		D. A. W.

Application No.	Date	Name of Applicant	Stamp Duty	No. of Years	Fees	No. and Date of Receipt	When Attended to	Initials of Registrar	Certificate when Issued	Exhibits No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.
			Rs.		Rs. c.					
2045	1-4-46	W. Rajapakse	1/-					D. A. W.		
2046	„	B. S. Wickremaratna	1/-					„		
2047	„	Do.	1/-					„		
2048	„	M. N. M. Salahadeen	2/-					„		
10 2049	„	S. A. Sagu Hamid	1/-					„		
2050	„	B. J. St. Perera	3/-					„		
2051	„	A. M. Fuard	1/-					„		
2052	„	P. H. P. Sugathathasa	1/-					„		
2053	„	M. O. Fernando	2/-					„		
2054	„	L. H. Perera	1/-					„		
2055	„	J. M. Kadaranpillai	1/-					„		
2056	„	R. Hewagama	1/-					„		
2057	„	C. C. Stembo	1/-					„		
2058	„	Do.	1/-					„		
20 2059	„	P. Abraham	2/-					„		
2060	„	S. L. A. Perera	1/-					„		
2061	„	D. F. de Silva	1/-					„		
2062	2-4-46	W. C. Boteju	1/-				2-4	„		
2063	„	L. H. Jayasekara	1/-					„		
2064	„	S. P. Ranasinghe	1/-					„		
2065	„	H. D. C. Gunasekara	1/-					„		
2066	„	J. M. Perera	1/-					„		
2067	„	A. V. P. Joseph	1/-					„		
2068	„	W. J. Senaratna	2/-					„		
30 2069	„	J. E. Amarasekara	3/-					„		
2070	„	M. Siriwardana	1/-					„		
2071	„	V. A. P. Nanayakarar	1/-					„		
2072	„	J. W. Perera	1/-					„		
2073	„	Do.	1/-					„		
2074	„	C. E. A. Goonasekera	1/-					„		
2075	„	D. A. S. Amaratunga	2/-					„		
2076	„	I. E. Amarasekara	1/-					„		
2077	„	H. V. Ram Iswara	1/-					„		
2078	„	Bank of Ceylon	1/-	5	1'00	807/2-4-46	5-4	„	5-4	
40 2079	„	A. B. C. de Soysa	2/-					„		
2080	„	D. A. S. Amaratunga	1/-					„		
2081	„	D. B. Ranasinghe	1/-					„		

Exhibits No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.	Application		Name of Applicant	Stamp Duty	When Attended to	Initials of Registrar	
	Number	Date		Rs.			
2082	2-4-46	W. William Singho	1/-			D. A. W.	
2083	"	Q. M. R. Jayamanne	1/-			D. A. W.	
2084	"	R. Hewagama	1/-			D. A. W.	
2085	"	S. Ratnabaran	1/-			D. A. W.	
2086	"	A. H. Seneviratne	1/-			D. A. W.	
2087	"	H. G. Geddes	2/-			D. A. W.	10
2088	"	A. S. R. Senaratna	1/-			D. A. W.	
2089	"	M. M. A. Raheem	1/-			D. A. W.	
2090	"	C. Jorloof	1/-			D. A. W.	
2091	"	M. M. A. Raheem	1/-			D. A. W.	
2092	"	W. H. W. Perera	1/-			D. A. W.	
2093	"	R. Jeremiah	1/-			D. A. W.	
2094	3-4-46	D. R. de S. Abeyanayake	1/-		3-4	J. P. W.	
2095	"	W. J. Serasinghe	2/-			J. P. W.	
2096	"	Gratiaen & Drieberg	1/-			J. P. W.	
2097	"	M. Ayupala	1/-			J. P. W.	20
2098	"	H. Aron Silva	1/-			J. P. W.	
2099	"	W. Rajapakse	1/-			J. P. W.	
2100	"	L. A. Y. Wickremasinghe	1/-			J. P. W.	
2101	"	D. L. Gunasekera	2/-			J. P. W.	
2102	"	Chief Valuer	—			J. P. W.	
2103	"	P. P. Jayawardena	3/-			J. P. W.	
2104	"	W. J. Serasinghe	2/-			J. P. W.	
2105	"	A. V. Fernando	1/-			J. P. W.	
2106	"	D. P. Samarajewa	1/-			J. P. W.	
2107	"	C. A. S. Mather	2/-			J. P. W.	30
2108	"	W. F. Wijesekera	3/-			J. P. W.	
2109	"	V. H. N. Fernando	1/-			J. P. W.	
2110	"	K. D. Fernando	1/-			J. P. W.	
2111	"	W. Rajapakse	1/-			J. P. W.	
2112	"	H. V. Ram Iswara	1/-			J. P. W.	
2113	"	V. A. E. Abeyratne	1/-			J. P. W.	
2114	"	W. S. Wijesekera	1/-			J. P. W.	
2115	"	P. D. S. Jayasekera	2/-			J. P. W.	
2116	"	Do.	1/-			J. P. W.	
2117	"	P. Abraham	1/-			J. P. W.	40
2118	"	S. N. Navaratnam	1/-			J. P. W.	
2119	"	H. U. H. Soysa	1/-			J. P. W.	
2120	"	D. M. Galhena	1/-			J. P. W.	
2121	"	S. A. Nalliah	1/-			J. P. W.	
2122	"	D. A. D. Jayasuriya	1/-			J. P. W.	
2123	4-4-46	T. de Saram	1/-		4-4-46	J. P. W.	
2124	"	D. Lorage	1/-			J. P. W.	
2125	"	D. D. A. Seneviratne	1/-			J. A. W.	
2126	"	F. Mack	1/-			J. A. W.	
2127	"	D. Lorage	1/-			J. A. W.	50
2128	"	W. A. Goonewardena	2/-			J. A. W.	
2129	"	A. C. S. Rodrigo	1/-			J. A. W.	
2130	"	J. H. M. Rodrigo	1/-			J. A. W.	
2131	"	A. H. Seneviratne	1/-			J. A. W.	
2132	"	J. H. M. Fernando	1/-			J. A. W.	
2133	"	W. A. Gunawardena	2/-			J. A. W.	
2134	"	J. S. Wijesekera	1/-			J. A. W.	

Application		Name of Applicant	Stamp	When	Initials of Registrar	Exhibits
Number	Date		Duty	Attended to		No. P22 Register of Applications for Searches 25th March to 12th April 1945
			Rs.			<i>—continued.</i>
2135	4-4-46	W. A. Goonewardena	1/-		J. A. W.	
2136	"	C. B. Dias	1/-		J. A. W.	
2137	"	S. D. S. Goonetilleke	1/-		J. A. W.	
2138	"	D. H. N. Jayamaha	1/-		J. A. W.	
2139	"	D. Y. R. Gunawardena	1/-		J. A. W.	
10 2140	"	V. Nallasekaram	1/-		J. A. W.	
2141	5-4-46	W. Rajapakse	1/-		J. A. W.	
2142	"	A. H. Seneviratne	1/-		J. A. W.	
2143	"	E. G. W. Seneviratne	1/-		J. A. W.	
2144	"	P. P. Gunawardena	1/-		J. A. W.	
2145	"	D. C. S. Samaranyake	1/-		J. A. W.	
2146	"	D. C. S. Samaranyake	1/-		J. A. W.	
2147	"	J. F. Gunaratne	1/-		J. A. W.	
2148	"	Do.	1/-		J. A. W.	
2149	"	D. C. P. Abayawardena	1/-		J. A. W.	
20 2150	"	J. S. Goonewardena	1/-		J. A. W.	
2151	"	P. S. de Kretser	1/-		J. A. W.	
2152	"	S. Somasundram	1/-		J. A. W.	
2153	"	S. H. D. Abeyasinghe	1/-		J. A. W.	
2154	"	Do.	1/-		J. A. W.	
2155	"	R. W. Perera	1/-		J. A. W.	
2156	"	K. V. N. Perera	1/50		J. A. W.	
2157	"	S. Mc. de Soysa	1/-		J. A. W.	
2158	"	B. J. Fernando	1/-		J. A. W.	
2159	"	P. Jeremiah	3/-		J. A. W.	
30 2160	"	S. A. S. Hamid	1/-		J. A. W.	
2161	"	B. J. Fernando	1/-		J. A. W.	
2162	"	K. V. A. Perera	3/-		J. A. W.	
2163	"	S. O. Stembo	1/-		J. A. W.	
2164	"	H. S. Perera	1/-		J. A. W.	
2165	"	C. C. Stembo	1/-		J. A. W.	
2166	"	D. F. J. Perera	1/-		J. A. W.	
2167	"	N. V. T. Cooray	1/-		J. A. W.	
2168	"	R. Jeremiah	1/-		J. A. W.	
2169	"	S. A. Nillavarayan	1/-		J. A. W.	
40 2170	"	S. Wickremasinghe	1/-		J. A. W.	
2171	"	C. Stembo	1/-		J. A. W.	
2172	"	K. V. A. Perera	1/-		J. A. W.	
2173	6-4-46	D. H. Jayasinghe	1/-		J. A. W.	
2174	"	D. H. S. Amaratunga	1/-		J. A. W.	
2175	"	V. H. N. Fernando	1/-		J. A. W.	
2176	"	Iaole Rosario	1/-		J. A. W.	
2177	"	W. C. Boteju	1/-		J. A. W.	
2178	"	P. Abraham	1/-		J. A. W.	
2179	"	E. R. de Silva	1/-		J. A. W.	
50 2180	"	K. V. A. Perera	2/-		J. A. W.	
2181	"	J. A. Wijekoon	1/-		J. A. W.	
2182	"	V. T. Fernando	2/-		J. A. W.	
2183	"	Do.	1/-		J. A. W.	
2184	"	D. S. R. de S. Abeygoonsekere	1/-		J. A. W.	
2185	"	C. R. de Silva	1/-		J. A. W.	
2186	"	Gratiaen & De Rooy	1/-		J. A. W.	
2187	"	P. P. Ranasinghe	1/-		J. A. W.	

Exhibits	Application		Name of Applicant	Stamp Duty	When Attended to	Initials of Registrar	
No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.	Number	Date		Rs.			
	2188	6-4-46	B. J. S. S. V. Perera	2/-		J. A. W.	
	2189	"	D. F. Boteju	2/-		J. A. W.	
	2190	"	R. Jeremiah	2/-		J. A. W.	
	2191	"	S. Nadespillai	1/-		J. A. W.	
	2192	"	P. P. Jayawardena	1/-		J. A. W.	
	2193	"	W. C. Dissanayake	1/-		J. A. W.	10
	2194	"	D. J. Paul Perera	3/-		J. A. W.	
	2195	"	Do.	1/-		J. A. W.	
	2196	"	K. V. A. Perera	1/-		J. A. W.	
	2197	"	D. R. D. S. Abaynayake	2/-		J. A. W.	
	2198	"	D. S. A. Jayalath	1/-		J. A. W.	
	2199	"	N. V. T. Cooray	1/-		J. A. W.	
	2200	"	P. Jeremiah	1/-		J. A. W.	
	2201	"	N. V. T. Cooray	1/-		J. A. W.	
	2202	"	C. M. Kumaravelpillai	1/-		J. A. W.	
	2203	"	R. C. M. Abdul Cader	1/-		J. A. W.	20
	2204	"	L. D. S. Jayasinghe	2/-	8-4-46	J. A. W.	
	2205	8-4-46	A. H. Seneviratne	1/-		J. A. W.	
	2206	"	J. Nelson	1/-		J. A. W.	
	2207	"	Do.	1/-		J. A. W.	
	2208	"	Do.	1/-		J. A. W.	
	2209	"	D. R. Samarajewa	1/-		J. A. W.	
	2210	"	D. R. D. S. Abaynayake	1/-		J. A. W.	
	2211	"	P. D. A. Mack	2/-		J. A. W.	
	2212	"	D. A. P. S. Samarawickrema	1/-		J. A. W.	
	2213	"	F. H. Gunaratne	1/-		J. A. W.	30
	2214	"	Chief Valuer	—		J. A. W.	
	2215	"	A. C. C. Haseeb	1/-		J. A. W.	
	2216	"	Do.	1/-		J. A. W.	
	2217	"	D. H. N. Jayamaha	1/-		J. A. W.	
	2218	"	Do.	1/-		J. A. W.	
	2219	"	M. U. M. Saleem	1/-		J. A. W.	
	2220	"	P. E. S. Wijesekera	1/-		J. A. W.	
	2221	"	C. M. Cumaravelupillai	1/-		J. A. W.	
	2222	"	D. A. E. Meegama	1/-		J. A. W.	
	2223	"	M. D. Gunatileke	1/-		J. A. W.	40
	2224	"	D. H. Kulapahana	1/-		J. A. W.	
	2225	"	A. Clive Abeyewardena	1/-		J. A. W.	
	2226	"	C. M. Cumaravelupillai	1/-		J. A. W.	
	2227	"	L. J. E. Cabraal	2/50		J. A. W.	
	2228	"	Do.	1/-		J. A. W.	
	2229	"	A. P. Gunatileke	2/-		J. A. W.	
	2230	"	A. P. W. Razeem	1/-		J. A. W.	
	2231	"	M. W. M. Saleem	1/-		J. A. W.	
	2232	"	D. J. Paul Perera	2/-		J. A. W.	
	2233	"	M. U. M. Saleem	1/-		J. A. W.	50
	2234	"	L. P. Amaratunga	1/-		J. A. W.	
	2235	"	T. Nadarajah	1/-		J. A. W.	
	2236	"	M. U. M. Saleem	1/-		J. A. W.	
	2237	"	K. T. Sittampalam	1/-		J. A. W.	
	2238	"	D. S. A. Jayalath	1/-		J. A. W.	
	2239	"	P. Kanagarajah	4/-		J. A. W.	
	2240	"	D. A. D. Jayasuriya	1/-		J. A. W.	

Application		Name of Applicant	Stamp	When	Initials of Registrar	Exhibits No. P22 Register of Applications for Searches 23rd March to 12th April 1946 —continued.
Number	Date		Duty	Attended to		
			Rs.			
2241	8-4-46	D. L. Gunasekera	1/-		J. A. W.	
2242	"	H. Ram Iswaram	1/-		J. A. W.	
2243	9-4-46	A. H. Seneviratne	1/-	9-4-46	J. A. W.	
2244	"	D. M. Galhena	1/-		J. A. W.	
2245	"	de Silva & Mendis	1/-		J. A. W.	
10 2246	"	E. G. W. Senaratne	1/-		J. A. W.	
2247	"	P. D. A. Mack	2/-		J. A. W.	
2248	"	D. V. Ranasinghe	1/-		J. A. W.	
2249	"	T. D. D. W. Senaratne	1/-		J. A. W.	
2250	"	D. E. Weerasooriya	1/-		J. A. W.	
2251	"	A. V. Fernando	2/-		J. A. W.	
2252	"	Do.	1/-		J. A. W.	
2253	"	J. S. Wijesekera	2/-		J. A. W.	
2254	"	Pandit G. P. Wickremaratne	1/-		J. A. W.	
2255	"	Das Wijesinghe	1/-		J. A. W.	
20 2256	"	Do.	1/-		J. A. W.	
2257	"	A. M. Fuard	1/-		J. A. W.	
2258	"	R. C. Perera	1/-		J. A. W.	
2259	"	W. Rajapakse	1/-		J. A. W.	
2260	"	N. H. W. Sulaiman	1/-		J. A. W.	
2261	"	W. F. Wijesekera	3/-		J. A. W.	
2262	"	C. E. Jayewardena	1/-		J. A. W.	
2263	"	C. de Saram	1/-		J. A. W.	
2264	"	Do.	2/-		J. A. W.	
2265	"	J. H. Ekanayake	1/-		J. A. W.	
30 2266	"	de Silva & Mendis	1/-		J. A. W.	
2267	"	C. de Saram	1/-		J. A. W.	
2268	"	G. A. Nisanka	1/-		J. A. W.	
2269	"	R. Hewagama	1/-		J. A. W.	
2270	"	Do.	1/-		J. A. W.	
2271	"	G. G. Motha	1/-		J. A. W.	
2272	"	K. V. A. Perera	1/-		J. A. W.	
2273	"	A. H. Seneviratne	2/-		J. A. W.	
2274	"	C. R. de Alwis	1/-		J. A. W.	
2275	"	P. C. Fernando	1/-		J. A. W.	
40 2276	"	L. W. P. Weerasinghe	1/-		J. A. W.	
2277	"	L. S. Fernando	1/-		J. A. W.	
2278	"	P. C. Senaviratne	1/-		J. A. W.	
2279	"	W. F. Wijesekera	4/-		J. A. W.	
2280	"	S. D. R. Valentine	1/-		J. A. W.	
2281	"	H. L. Fonseka	1/-		J. A. W.	
2282	"	Do.	1/-		J. A. W.	
2283	"	D. M. Galhena	1/-		J. A. W.	
2284	"	N. V. T. Cooray	2/-		J. A. W.	
2285	"	H. A. Abeywardena	2/-		J. A. W.	
50 2286	"	P. D. A. Mack	2/-		J. A. W.	
2287	"	P. S. de Kretser	1/-		J. A. W.	
2288	"	Do.	1/-		J. A. W.	
2289	"	N. J. S. Cooray	1/-		J. A. W.	
2290	"	W. H. W. Perera	1/-		J. A. W.	
2291	10-4-46	D. L. S. Wickremasinghe	1/-		J. A. W.	
2292	"	W. Rajapakse	1/-		J. A. W.	
2298	"	I. S. I. Kalpage	1/-		J. A. W.	

Exhibits	Application		Name of Applicant	Stamp Duty	When Attended to	Initials of Registrar
No. P22 Register of Applications for Searches 25th March to 12th April 1946 —continued.	Number	Date		Rs.		
	2394	10-4-46	L. L. Fonseka	1/-		J. A. W.
	2295	"	S. Goonesekera	1/-		J. A. W.
	2296	"	D. E. P. Abeywardena	1/-		J. A. W.
	2297	"	A. H. Seneviratne	1/-		J. A. W.
	2298	"	P. P. Goonewardena	1/-		J. A. W.
	2299	"	S. M. H. Mahoor	2/-		J. A. W.
	2300	"	V. T. Fernando	1/-		J. A. W.
	2301	"	K. M. A. Alwis	2/-		J. A. W.
	2302	"	K. Velauthan	1/-		J. A. W.
	2303	"	S. Gunasekera	1/-		J. A. W.
	2304	"	E. B. de Silva	1/-		J. A. W.
	2305	"	P. Abraham	3/-		J. A. W.
	2306	"	K. M. A. Alwis	1/-		J. A. W.
	2307	"	S. L. Moonesinghe	1/-		J. A. W.
	2308	"	M. S. M. Shabdeen	1/-		J. A. W.
	2309	"	A. D. S. Dissanayake	1/-		J. A. W.
	2310	"	K. M. A. Alwis	1/-		J. A. W.
	2311	"	S. L. Moonesinghe	1/-		J. A. W.
	2312	"	Do.	2/-		J. A. W.
	2313	"	R. G. A. de Mel	1/-		J. A. W.
	2314	"	T. D. D. W. Seneviratne	1/-		J. A. W.
	2315	"	W. A. Goonewardena	1/-		J. A. W.
	2316	"	H. Welivittigoda	1/-		J. A. W.
	2317	"	J. A. Wijekoon	1/-		J. A. W.
	2318	"	V. E. Vellayathapillai	1/-		J. A. W.
	2319	"	S. E. A. Perera	1/-		J. A. W.
	2320	"	D. L. & F. de Saram	1/-		J. A. W.
	2321	"	D. E. Weerakkody	2/-		J. A. W.
	2322	"	S. S. Kandiah	1/-		J. A. W.
	2323	"	E. S. Wijesekera	3/-		J. A. W.
	2324	11-4-46	D. A. D. Jayasuriya	1/-		J. A. W.
	2325	"	K. Arunachelvam	1/-		J. A. W.
	2326	"	J. P. Wickrematileke	1/-		J. A. W.
	2327	"	L. D. S. Jayasinghe	1/-		J. A. W.
	2328	"	V. E. Perera	1/50		J. A. W.
	2329	"	P. Athuraliya	1/-		J. A. W.
	2330	"	P. Sivagurunathan	1/-		J. A. W.
	2331	"	M. S. M. Shabdeen	1/-		J. A. W.
	2332	"	Land Settlement Office	—		J. A. W.
	2333	"	D. P. Samarajewa	1/-		Official J. A. W.
	2333A	"	V. E. Perera	1/-		J. A. W.
	2334	"	D. H. N. Jayamaha	2/-		J. A. W.
	2335	"	P. P. Jayawardena	2/-		J. A. W.
	2336	"	L. G. Motha	1/-		J. A. W.
	2337	"	Do.	1/-		J. A. W.
	2338	"	Don J. Fernando	1/-		J. A. W.
	2339	"	M. S. M. Shabdeen	1/-		J. A. W.
	2340	"	Q. M. R. Jayamanne	1/-		J. A. W.
	2341	"	M. Samarakkody	3/-		J. A. W.
	2342	"	C. E. A. Goonesekera	1/-		J. A. W.
	2343	"	C. E. Senarath	1/-		J. A. W.
	2344	"	E. A. C. Pereira	1/-		J. A. W.

Application		Name of Applicant	Stamp	Initials of Registrar	Exhibits No. P22 Register of Applications for searches 25th March to 12th April 1946 —continued.
Number	Date		Duty			Attended to
			Rs.		
2845	11-4-46	R. S. Perera	1/-	J. A. W.	
2846	"	C. de Saram	1/-	J. A. W.	
2847	"	R. S. Perera	1/-	J. A. W.	
2848	"	A. V. J. Joseph	1/-	J. A. W.	
2849	"	H. P. Fonseka	1/-	J. A. W.	
10 2850	"	J. A. V. Modder	2/-	J. A. W.	
2851	"	S. A. Nalliah	1/-	J. A. W.	
2852	"	H. V. Ram Iswara	1/-	J. A. W.	
2853	"	A. E. W. Goonewardena	1/-	J. A. W.	
2854	"	D. C. E. V. Karunaratne	1/-	J. A. W.	
2855	"	A. V. W. Goonewardena	1/-	J. A. W.	
2856	"	D. M. Galhena	1/-	J. A. W.	
2857	"	A. V. M. Goonewardena	1/-	J. A. W.	
2858	12-4-46	A. H. Seneviratne	1/-	J. A. W.	
2859	"	S. M. C. de Zoysa	1/-	J. A. W.	
20 2860	"	W. Rajapakse	2/-	J. A. W.	
2861	"	G. M. Galhena	1/-	J. A. W.	
2863	"	D. S. Kariaperuma	1/-	J. A. W.	
2864	"	R. Muttuswami	1/-	J. A. W.	
2865	"	A. C. A. Haseeb	1/-	J. A. W.	
2866	"	F. W. Wijesckera	1/-	J. A. W.	
2867	"	Chief Valuer	—	Official	
2868	"	M. T. Basnayake	1/-	J. A. W.	
2869	"	A. D. Gordon	1/-	J. A. W.	
2870	"	S. H. De Abeysekera	1/-	J. A. W.	
30 2871	"	D. S. A. Jayalath	1/-	J. A. W.	
2872	"	M. S. M. Shabdeen	1/-	J. A. W.	
2873	"	W. Rajapakse	1/-	J. A. W.	
2874	"	S. H. D. Abeyasinghe	1/-	J. A. W.	
2875	"	J. G. Fernando	2/-	J. A. W.	
2876	"	H. E. Wijetunga	1/-	J. A. W.	
2877	"	A. C. Abeywardena	1/-	J. A. W.	
2878	"	Miss A. V. Puspha Devi Joseph	1/-	J. A. W.	
2879	"	C. C. Stembo	1/-	J. A. W.	
2880	"	D. B. Jayaratne	1/-	J. A. W.	
40 2881	"	T. E. D. Pieris	1/-	J. A. W.	
2882	"	A. L. Goonesckera	3/-	J. A. W.	
2883	"	J. A. Wijekoon	1/-	J. A. W.	
2884	"	S. D. R. Valentine	1/-	J. A. W.	
2885	"	K. Rasanathan	1/-	J. A. W.	

Exhibits

No. P20
Copy of
Application
No. 2211
for search
of Land
Register
8-4-46

No. P 20

Copy of Application No. 2211 for Search of Land Register

No. 2211.

To THE REGISTRAR OF LANDS, Rajagiriya,

I, P. D. A. Mack, Notary Public of Colombo, do hereby apply to have access to the register or registers specified overleaf, and to the connected indexes, for the purpose of searching for entries affecting the property described overleaf in connection with one transaction.

2. I am interested in the above-mentioned registers as a Notary instructed by Miss Weerasekera, of Milagiriya Avenue, Bambalapitiya, 10 who is a part owner to report on Title.

3. I affix uncanceled stamps of the value of Rs..... in payment of fees under item 1 of Part III of the First Schedule to the Registration of Documents Ordinance (Cap. 101).

4. I authorise the searcher of the Registrar-General's Department to make the said search on my behalf ; and I do hereby expressly declare that I absolve the Registrar-General and every officer of his Department from responsibility for any act or omission of the said searcher in regard to such search or to any information that may be given or omitted to be given by him to me. 20

5. I tender herewith a sum of Rupees..... (Rs.....) in uncanceled stamps in payment of your departmental charges for search.

Date of Application : 8th April, 1946.

(Sgd.) P. D. A. MACK,
Signature of Applicant.

Register access to which is required

Division : No. 93 Modera Street, 651 Bloemendhal Street, 35—36, 129
Madampitiya Road, Colombo.
Baillie Street, Fort, Colombo.
733—741, 458—462 Alutmawatta Road. 80

No. P20A

Original
of P20
8-4-46

No. P 20A

Original of P 20

P 20A

Application for Search of Land Register

No. 2211.

To THE REGISTRAR OF LANDS, Rajagiriya.

I, P. D. A. Mack, Notary Public of Colombo, do hereby apply to have access to the register or registers specified overleaf, and to the connected indexes, for the purpose of searching for entries affecting the property described overleaf in connection with one transaction,

2. I am interested in the above-mentioned registers as a Notary instructed by Miss Weerasekera of Milagiriya Avenue, Bambalapitiya, who is part owner to report on title.

Exhibits
No. P20A
Original
of P20
8-4-46
—continued.

3. I affix uncanceled stamps of the value of Rs..... in payment of fees under item 1 of Part III of the First Schedule to the Registration of Documents Ordinance (Cap. 101).

4. I authorise the searcher of the Registrar-General's Department to make the said search on my behalf; and I do hereby expressly declare that I absolve the Registrar-General and every officer of his Department from responsibility for any act or omission of the said searcher in regard to such search or to any information that may be given or omitted to be given by him to me.

5. I tender herewith a sum of Rupees..... in uncanceled stamps in payment of your departmental charges for search.

(Sgd.) P. D. A. MACK,
Signature of Applicant.

Date of application : 8th April, 1946.

Order of Registrar allowing application.

Allowed : Intld. —

20

8/4/46.

Register access to which is required

Division : No. 93, Modera Street ; 651, Bloemendhal Street ; 35—36, 129, Madampitiya Road.

Baillie Street, Fort, Colombo.

733—741, 458—462, Alutmawatte Road.

No. P 23

Application No. 2247 for Search of Land Register

P 23

No. 2247.

To THE REGISTRAR OF LANDS, Rajagiriya.

No. P23
Application
No. 2247
for search
of Land
Register
9-4-46

30 I, P. D. A. Mack, Notary Public of Colombo, do hereby apply to have access to the register or registers specified overleaf, and to the connected indexes, for the purpose of searching for entries affecting the property described overleaf in connection with one transaction.

2. I am interested in the above-mentioned registers as a notary instructed by N. P. Karunaratne of Colpetty No. 46 as intending lessee to report on title.

3. I affix uncanceled stamps of the value of Rs..... in payment of fees under item 1 Part III of the First Schedule to the Registration of Documents Ordinance (Cap. 101).

Exhibits
No. P28
Application
No. 2247
for search
of Land
Register
9-4-46
—continued.

4. I authorise the searcher of the Registrar-General's Department to make the said search on my behalf; and I do hereby expressly declare that I absolve the Registrar-General and every officer of his Department from responsibility for any act or omission of the said searcher in regard to such search or to any information that may be given or omitted to be given by him to me.

5. I tender herewith a sum of Rupees One (Re. 1) in uncanceled stamps in payment of your departmental charges for search.

(Sgd.) P. D. A. MACK

Date of Application : 9th April, 1946.

10

Order of Registrar allowing application.

Allowed : Intld. J. P. W.

Register access to which is required

9-4-46.

Vol. No. 162

Folio No. 24—25

No. P24

Application
No. 2286
for search
of Land
Register
9-4-46

No. P 24

Application No. 2286 for Search of Land Register

To THE REGISTRAR OF LANDS, Rajagiriya.

No. 2286

I, P. D. A. Mack, Notary Public of Colombo, do hereby apply to have access to the register or registers specified overleaf, and to the connected 20 indexes, for the purpose of searching for entries affecting the property described overleaf in connection with one transaction.

2. I am interested in the above-mentioned registers as a Notary instructed to search encumbrances for reporting on title.

3. I affix uncanceled stamps of the value of Rs..... in payment of fees under item 1 of Part III of the First Schedule to the Registration of Documents Ordinance (Cap. 101).

4. I authorise the searcher of the Registrar-General's Department to make the said search on my behalf, and I do hereby declare that I absolve the Registrar-General and every officer of his Department from responsibility for any act or omission of the said searcher in regard to such search or to any information that may be given or omitted to be given by him to me.

5. I tender herewith a sum of Rupees One (Re. 1) in uncanceled stamps in payment of your departmental charges for search.

Date of application : 9-4-1946.

(Sgd.) P. D. A. MACK.

Order of Registrar allowing application.

Allowed : Intld. D. C. J.

Register access to which is required

9-4-46. 40

Division

Vol. No.

Folio No.

E

6

204

E

1

6

No. P1
Deed No. 602

Exhibits
No. P1
Deed
No. 602
12-4-46

Prior registration in the Schedule.

Registered A 286/175, 263/159, 289/256, 263/156, 289/255, 263/154—155.

Colombo, 15th April, 1946.

(Sgd.) ———

R. L.

No. 602

TO ALL TO WHOM THESE PRESENTS SHALL COME, Bridget
10 Antony widow of the late Conganige Seraphim Antony of "Whist Bungalow", Mutwal, Colombo (hereinafter sometimes called the Donor).

Send Greetings :

WHEREAS the said Donor is the lawful owner and proprietor and is seised and possessed of or otherwise well and sufficiently entitled to the properties and premises in the Schedule hereto fully described.

AND WHEREAS the said Donor in consideration of the love and affection which she has and bears unto her grand-daughter Mary Imelda Weerasekera also of Whist Bungalow aforesaid (hereinafter called the Donee) and for diverse other good causes her hereunto specially moving
20 is desirous of giving and granting unto her the said Donee the properties and premises in the Schedule hereto fully described as a GIFT absolute and irrevocable.

NOW KNOW YE AND THESE PRESENTS WITNESS that the said Donor of her own free will and pleasure and for and in consideration of the love and affection which she has and bears unto her grand-daughter the said Donee and for diverse other good causes her hereunto specially moving doth hereby give grant assign convey set over and assure unto her the said Donee her heirs executors administrators and assigns as a
30 GIFT absolute and irrevocable the properties and premises in the Schedule hereto fully described together with the buildings standing thereon and together with all and singular the rights privileges easements servitudes appurtenances whatsoever to the properties and premises in the Schedule hereto belonging or in anywise appertaining or held to belong or be appurtenant thereto or used or enjoyed or occupied therewith or reputed or known as part and parcel thereof and all the estate right title interest property claim and demand whatsoever of the said Donor in to out of or upon the same.

TO HAVE AND TO HOLD the said properties and premises in the Schedule hereto fully described hereby transferred and conveyed or
40 expressed or intended so to be by way of Gift of the value of Rupees One hundred and Fifty thousand (Rs. 150,000) with all its appurtenances unto her the said Donee and her aforewritten absolutely for ever.

Exhibits

No. P1
Deed
No. 602
12-4-46
—continued.

AND the said Donor doth hereby for herself her heirs executors and administrators covenant and declare with and to the said Donee and her aforewritten that she has good right full power and authority to transfer and convey the properties and premises in the Schedule hereto to the said Donee and her aforewritten in manner aforesaid and that she shall and will at all times hereafter at the request and expense of the said Donee or her aforewritten do and execute or cause to be done and executed all such further and other acts deeds matters and assurances and things whatsoever for more perfectly and effectually conveying and assuring the said properties and premises in the Schedule hereto fully described unto the said Donee and her aforewritten as shall or may be reasonably required.

AND the said Donee doth hereby thankfully accept the said Gift hereby made.

IN WITNESS WHEREOF the said Bridget Antony and Mary Imelda Weerasekera do set their respective hands to three of the same tenor and as these presents at Colombo this Twelfth day of April, One thousand Nine hundred and Forty-six.

The Schedule above referred to

1. An undivided half of all that allotment of land together with the buildings standing thereon called and known as Whist Bungalow, 20 bearing Assessment Nos. 93, 101, 103, 105 and 107 situated at Modera Street, Mutwal, within the Municipality and District of Colombo, Western Province, bounded on the East by the property of W. Juan Fernando and other South-east by Modera Street and South-west by Whist Passage and on the West and North-west by Kelani Ganga, containing in extent four acres two roods and thirty-nine perches (4A. 2R. 39P.), registered Colombo A 287/175.

2. An undivided half of all that allotment of land together with the buildings standing thereon called and known as Bloemendhal Stores comprising the several allotments of land called Walauwatta, Nugagahawatte, 30 Nugagahawatte *alias* Ambagahawatte, Ambagahawatte bearing assessment Nos. 641 and 651, Bloemendhal Road and Nos. 510 and 518, Aluthmawatte Road within the Municipality and District of Colombo aforesaid, bounded on the North-east by land bearing assessment No. 314 (1), premises bearing assessment No. 312 of Markias Fernando, premises No. 307 of H. Peduru land of Juan Silva Stephen Silva, premises bearing assessment No. 316 of Juan Silva land of Attanayake J. Fernando E. Dionis Antony and others H. Paulis Silva and premises bearing assessment No. 14c, on the South-east by premises bearing assessment No. 14c and Bloemendhal Road, on the South-west by land belonging to the Crown 40 and Mudaliyar John F. Perera, and on the North-west by lot 1 in P. P. 20243 and Aluthmawatte Road, containing in extent five acres two roods and one point twenty-three perches (5A. 2R. 1.23P.), registered Colombo A 258/159.

3. An undivided half $\frac{1}{2}$ of all that allotment of land together with the buildings standing thereon called and known as Hilland House bearing assessment No. 1487/249 situated at Madampitiya Road within the Municipality and District of Colombo aforesaid, and bounded on the North by premises bearing assessment No. 1485/251 of Felix Candappa and premises bearing assessment No. 1486/250 of P. F. Goonesekera and Madampitiya Street, on the East by Mutwal Police Station and premises bearing assessment No. 3232/90 of Walter de Zoysa, on the South by premises bearing assessment No. 3640/72 of Migel Mendis premises bearing assessment No. 3641/72 of Victor Silva premises bearing assessment No. 3644/149 of Jacolis Mendis premises bearing assessment No. 3645/149 of Girigoris Thaber and premises bearing assessment No. 3547/149 of St. James' Church, and on the West by premises bearing assessment No. 3649/144 of A. Catherine de Silva Gunasekera and premises bearing assessment No. 3650/147 of Alexander Mendis, containing in extent one acre and twenty-eight perches (1A. 0R. 28P.), registered in Colombo A 263/158.
4. An undivided half of all that allotment of land called Ambagahawatte together with the buildings standing thereon and known as Tea Stores formerly bearing assessment Nos. 1475/236, 1476/233, 1478/234 (1—3) and presently No. 1475/236 situated at Madampitiya Road within the Municipality and District of Colombo aforesaid and bounded on the North-east by premises bearing assessment No. 309 of the estate of the late Chapman Dias, and on the South-east by the Catholic Young Men's Association's playground bearing assessment No. 1473/238 and premises bearing assessment No. 1474/237 of Joseph Dias, on the South-west by Madampitiya Road, and on the North-west by premises bearing assessment Nos. 1479/232, 1480/232 of P. E. Perera, containing in extent three roods and two perches (0A. 3R. 2P.), registered Colombo A 263/156).
5. An undivided half of all that allotment of land together with the buildings standing thereon bearing assessment Nos. 96, 96A to 96F formerly bearing assessment No. 95 and 96 situated at Madampitiya aforesaid, bounded on the North-east by premises bearing assessment No. 94 of H. A. de Silva, on the South-west by Madampitiya Road, and on the North-west by Lot F in P. P. 10413 containing in extent three roods and thirty-two point seventy-five perches (0A. 3R. 32.75P.), registered Colombo A 289/255, A 263/157.
6. An undivided half of all that allotment of land together with the buildings standing thereon called Kongahawatte Timbirigahawatte Siyambalagahawatte bearing assessment Nos. 6, 7 and 9 Modera Street aforesaid, bounded North-east by the property of Wijemuni Jagarias Soysa, on the South-east by Modera Street, on the South-west by the properties of Deniadura Solona Silva and Conganige Santiago Antony now belonging to T. James Silva and the estate of Casperu Soysa, and on the North-west by the garden of Muthusamy and another, containing in extent thirty-five and quarter perches (0A. 0R. 35 $\frac{1}{4}$ P.), registered in Colombo A 263/154.

Exhibits
—
No. P1
Deed
No. 602
12-4-46
—continued.

Exhibits
 No. P1
 Deed
 No. 602
 12-4-46
 —continued.

7. An undivided half of all that allotment of land together with the buildings standing thereon bearing assessment Nos. 318, 319 and 320, Modera Street aforesaid, bounded on the North-east and South-west by the other portion of this land, on the South-west by a portion of this land and on the North-west by the high road, containing in extent twenty-one perches and seventy-eight upon one hundred perches, registered in A 263/155.

(Sgd.) BRIDGET ANTONY

Witnesses :

(Sgd.) IMELDA WEERASEKERA

(Sgd.) OLIVER G. DE ZOYSA

10

(Sgd.) H. C. VANDORT

(Sgd.) J. A. V. MODDER,

Notary Public.

I, John Albert Vernon Modder of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted do hereby certify and attest that the foregoing deed of gift having been duly read over and explained by me to the within-named Bridget Antony the Donor and Mary Imelda Weerasekera the Donee both of whom are not known to me in the presence of Oliver Giles de Zoyza of No. 33 Park Avenue Borella in Colombo aforesaid Doctor Hubert Collin Vandort of Milagiriya Avenue 20 Bambalapitiya in Colombo aforesaid the subscribing witnesses hereto both of whom are known to me and who declared to me that they were well acquainted with the Donor and the said Donee the same was signed by the said Donor (who signed as "Bridget Antony") the said Donee (who signed as "Imelda Weerasekera") and also by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo aforesaid on this Twelfth day of April, One thousand Nine hundred and Forty-six.

I also certify and attest that before the foregoing deed was read over and explained as aforesaid in the original page 1 line 27 the words 30 "and etc., etc., etc., etc. were interpolated".

I lastly certify and attest that no..... consideration was paid in my presence and that the original of this deed bears a stamp of the value of one rupee and the duplicate seven stamps of the aggregate value of Rs. 2,405.

Date of attestation : 12th April, 1946.

Which I attest :

(Sgd.) J. A. V. MODDER,

Notary Public.

No. 2D6
Power of Attorney No. 670

Exhibits

No. 2D6
Power of
Attorney
No. 670
12-4-46

2 D6

No. 670

TO ALL TO WHOM THESE PRESENTS SHALL COME, I Seyed Jagul Bhai of Slave Island, Colombo, in the Island of Ceylon :

Send Greetings :

WHEREAS I am about to leave the Island of Ceylon and it has become necessary for me to appoint some person to look after my business in this Island.

10 NOW KNOW YE AND THESE PRESENTS WITNESS THAT I the said Seyed Jagul Bhai have made nominated and appointed and by these presents do make, nominate and appoint Seyed Ammanullah Bhai of Slave Island, Colombo, my true and lawful attorney in the said Island to act for me and on my behalf and in the name of me and of my said firm or otherwise for all and each and every or any of the following purposes that is to say :

To superintend, manage and control the houses, lands, estates, other landed property as also the ships, vessels and boats which I now am or hereafter may become entitled to possess of or interested in and to sell
20 and dispose of or to mortgage and hypothecate or to demise and lease or freight or charter or to convey by way of exchange the houses, lands, estates and other landed property ships vessels and boats which I now am or hereafter may become entitled to possess of or interested in. To sell and dispose of or to ship and consign for sale elsewhere the crops and produce of the estates which I now am or hereafter may become entitled to possess of or interested in and to mortgage and the crops and produce of my estates, together with buildings tools implements machinery live and dead stock on the said estates or thereunto belonging as security for advances against crops or otherwise.

30 To call for and to give and consent to partition of the said lands, houses, buildings and premises or any of them between me and the other proprietor or proprietors thereof.

To purchase or take on lease for me any necessary lands tenements or hereditaments as to my said attorney shall seem proper.

In the event of any such purchase, sale, lease, exchange mortgage and hypothecation partition freight charter or for any other purpose whatsoever for me and in my name and as my act and deed to sign execute and deliver all deeds and other writings necessary for giving effect and validity to the same respectively or to any contract agreement or promise
40 for effecting the same respectively.

Exhibits
 No. 2D6
 Power of
 Attorney
 No. 670
 12-4-46
 —continued.

To ask demand sue for and recover and receive of and from all persons liable now or hereafter to pay and deliver the same respectively all sum and sums of money, debts legacies goods effects and things whatsoever now owing payable coming or belonging to me on payment or delivery thereof to give sign and execute receipts releases and other discharges for the same respectively and thereupon to manage employ and deal with the same as I could or might lawfully do, and on non-payment or non-delivery thereof or of any part thereof, to commence carry on and prosecute any action or actions suit or suits or other proceedings whatsoever before any Court or Courts in the said Island for receiving and compelling the pay-10 ment or delivery thereof.

To state finally settle and adjust all accounts reckonings and demands whatsoever between me and any person or persons whomsoever and to compromise disputes and differences and to refer matters to arbitration and to sign and execute all necessary bonds, submissions and references therefor and to enforce any award.

To sell and convert into money all goods, effects or things which now belong or at any time hereafter shall belong to me upon such security as my said attorney shall consider good and sufficient and from time to time to vary such investments for other or others of the same or like natures 20 or to release such security.

To appear for me before any Court or Courts in the said Island either as plaintiff defendant or intervenients and to sign and grant all necessary proxy or proxies to any Proctor or Proctors of the said Courts and the same from time to time recall and revoke, and to prosecute or defend any suit or suits or other proceeding now or hereafter to be brought by or against me and to proceed to judgment thereon or to suffer judgment by way of default to be entered against me and to admit any claim or claims which may be brought against me in such Court or Courts as my said attorney shall think fit, and against any judgment order or decree 30 of any of the said Courts to appeal and prosecute such appeal before the Supreme Court of the said Island and from any judgment order or decree of the said Supreme Court to appeal to His Majesty the King in Council and give all necessary securities and sign all necessary bonds for the prosecution of such appeals.

To prove any debt or debts due to me by any person who shall be adjudge an insolvent in any Court or Courts in the said and to vote in the election of assignees and to accept any offer of composition and otherwise to represent and act for me in such insolvency proceedings.

To raise or borrow money up on the security or any assignment or 40 assignments of any bond or bonds or other securities for money belonging to me or to my said firm and to sign all deeds necessary in that behalf.

To obtain accommodation by way of overdraft from any of the local banks in the said Island and to draw cheques to the extent of the overdraft so arranged with or without security.

To draw sign make endorse accept and discount any bill or bills of exchange or promissory note or notes, or bills of lading and to sign and endorse cheques drafts and orders for money.

To become security to any person for any purpose whatsoever, and to sign and deliver any deed or writing for the said purpose.

To enter into and execute any covenants, bonds, assignments of bond or judgments mortgages or other securities and warrants and powers of attorney for confessing judgment in any of the Courts in the said Island and to sign and deliver the same respectively and to attend any meetings
10 of any companies, wherein I am a shareholder, and to vote for me on any subject matter or question that may be brought forward at any such meeting at which by the rules and regulations of any such company I can or may vote if personally present, and to grant proxy or proxies to any other person or persons to vote on my behalf for any of the said purposes and generally to act for me and do execute any and every act matter or thing in respect of the liquidation or winding up of any such company or otherwise as shall or may be found necessary or expedient.

Generally to do, execute and perform all such further and other acts, deeds matters and things whatsoever which my said attorney shall think
20 necessary or proper to be done in and about or concerning my business estates lands, houses debts or affairs as fully and effectually to all intents and purposes as I might or could do if I were personally present and did the same in my proper person it being my intent and desire that all matters and things respecting the same shall be under the full management control and direction of my said attorney.

And for more effectually doing, effecting, executing and performing the several matters and things aforesaid, I give and grant unto my said attorney full power and authority from time to time to appoint one or more substitute or substitutes at pleasure to remove and to appoint
30 another or others in his or their places I hereby promising and agreeing to ratify, allow and confirm all and whatsoever my said attorney substitute or substitutes shall lawfully do or cause to be done in the premises by virtue hereof.

And I do hereby direct that all acts which shall be had made or done by my said attorney substitute or substitutes, before he or they shall have received notice of my death or the revocation of the authority contained in these presents shall be as binding and valid to all intents and purposes, as if the same had taken place previous to my death or before such revocation any rule of law or equity to the contrary notwithstanding.

40 And it is hereby expressly declared and agreed that as against me and my said firm and any person claiming under me or my said firm every act deed matter or thing which the said attorney substitute or substitutes shall execute or cause to be executed or done in relation to the premises subsequent to the revocation of the powers expressed to be hereby conferred or any of them shall be binding and conclusive in favour of every person claiming the benefit of such act deed matter or thing

Exhibits
No. 2D6
Power of
Attorney
No. 670
12-4-46
—continued.

Exhibits
 No. 2D6
 Power of
 Attorney
 No. 670
 12-4-46
 —continued.

who shall not prior to the execution or doing thereof have received express notice of such revocation and it is hereby further declared that no such person shall be bound to inquire or ascertain whether I am living or whether the said powers or any of them have or has been revoked or otherwise determined.

IN WITNESS WHEREOF I do set my hand to three of the same tenor and date as these presents at Colombo this Twelfth day of April, in the year One thousand Nine hundred and Forty-six.

(Sgd.) In Arabic
 SEYED JAGUL BHAI. 10

Witnesses :

(Sgd.) A. D. WIMALASIRI
 (Sgd.) A. R. J. DEEN

(Sgd.) K. RASANATHAN,
 N. P.

I, Krishnapillai Rasanathan of Colombo, in the Island of Ceylon, Notary Public duly admitted and practising, do hereby certify and attest that the foregoing instrument having been read over and explained by me to the within-named executant herein-named who has signed this instrument in Arabic characters as "Seyed Jagul" in the said deed named in the presence of Attalage Don Wimalasiri and Abdul Rahaman Jamal Deen both of Hultsdorf in Colombo both have signed this deed in English 20 as "A. D. Wimalasiri" and "A. R. J. Deen" respectively the subscribing witnesses thereto, both of whom are known to me the same was signed by the said executant and also by the said witnesses and by me the said Notary in my presence and in the presence of one another, all being present together at the same time at Colombo this Twelfth day of April, in the year One thousand Nine hundred and Forty-six.

I further certify and attest that the duplicate of the said deed bears a stamp of five rupees and that the stamp was supplied by-me.

(Sgd.) K. RASANATHAN,
 Notary Public. 80

Date of attestation : 12th April, 1946.

No. 2D7
 Mortgage
 Bond
 No. 671
 12-4-46

No. 2D7
 Mortgage Bond No. 671

2 D7

No. 671

KNOW ALL MEN BY THESE PRESENTS THAT We, Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalem both carry-on business in partnership under the name firm and style of Sri Ambis Cafe at No. 153, Sea Street, in Colombo (hereinafter called and referred to as the "Obligors") are jointly and severally held and firmly bound

unto Sunderam Chettiar son of Subramaniam Chettiar carrying on business under the name style and firm or vilasam of "S.P.M." at No. 71, Sea Street, in Colombo (hereinafter called and referred to as the "Obligee") in a penal sum of Rupees Six thousand (Rs. 6,000) of lawful money of Ceylon well and truly to be paid to the said Obligee or his heirs executors administrators or assigns for which payment to be well and truly made, We the said Obligors doth hereby bind ourselves and our heirs executors and administrators firmly by these presents.

Exhibits
No. 2D7
Mortgage
Bond
No. 671
12-4-46
—continued.

AND FOR SECURING to the said Obligee or his aforewritten the
10 payment of all sums of money payable under and by virtue or in respect
of these presents or on the promissory notes payable at fixed dates or on
demand or cheques or I.O.U. chits or thundus or renewals thereof herein-
after mentioned and the due and faithful observance and performance of
the covenants and agreements contained hereunder, We the said Obligors
doth hereby specially mortgage and hypothecate to and with the said
Obligee and his aforewritten as a Primary Mortgage the movables fully
described in Schedules hereto and all and singular the rights easements
servitudes and privileges advantages appurtenances whatsoever thereunto
20 belonging or used or enjoyed therewith or reputed or known as part and
parcel or member thereof and all the estates right title interest property
benefit claim and demand whatsoever of us the said Obligors into upon
or out of the movables fully described in the Schedules hereunder and
every part thereof.

AND We the said Obligors doth hereby for ourselves our aforewritten
covenant and declare to and with the said Obligee and his aforewritten
that We have a just and good right and lawful authority to make and
execute the foregoing mortgage in the manner aforesaid, that the said
movables or any part thereof are not subject to any mortgage, charge
lien lease Fiscal's seizures or other encumbrances whatsoever nature : and
30 that We shall maintain and keep the said movables and every part
thereof with their several appurtenances in good order and repair and
condition and that we the said Obligors shall regularly and without any
default whatsoever pay the monthly rental due to the landlord of the
premises wherein the movables in the Schedules hereto are now lying
or to such premises whereto the movables in the Schedules hereto may
from time to time be shifted with the written consent, of the Obligee
hereunder (without which consent We the said Obligors hereby agree not
to shift the said movables or any part thereof) and produce such rent
receipts to the Obligee for inspection monthly whether they be demanded
40 by him or not, and that We and our aforewritten shall and will at all
times hereafter at the request of the said Obligee or his aforewritten but
at our own cost and expense make do and execute or cause to be done
and executed all such further and other acts deeds matters and things
whatsoever necessary for the better and more perfectly securing the said
movables and every part thereof unto the said Obligee and his afore-
written by way of primary mortgage the movables in the Schedules
hereto fully described as by them or his aforewritten shall or may be
reasonably required.

Exhibits
 No. 2D7
 Mortgage
 Bond
 No. 671
 12-4-46
 —continued.

Dated at Colombo on this Twelfth day of April, One thousand Nine hundred and Forty-six.

WHEREAS We the said Obligors have requested the said Obligees to lend and advance to us the said Obligors upon promissory notes payable at fixed dates or on demand or cheques or I.O.U. chits or thundus or renewals thereof or any one or more of them made by us the said Obligors in favour of the said Obligees or in favour of his firm "S.P.M." repayable with interest thereon at and after the rate of fifteen per centum (15) from the date of the making of such loans and advances or on promissory notes cheques and I.O.U. chits or thundus endorsed by as the said 10 Obligors in favour of the said Obligees or in favour of his firm "S.P.M." repayable with interest at the and after the rate of fifteen per centum per annum from the date of such endorsement and assignment as and when We the said Obligors may require monies from time to time during the continuance of these presents not exceeding in the aggregate a sum of Rupees Three thousand (Rs. 3,000) and the said Obligees have agreed to make such loans and advances upon entering into the executing these presents and giving the mortgage hereby created for securing the payment of all such loans and advances as aforesaid with interest and costs, if any, should accrue as aforesaid so that these presents may be a continuing 20 security to the said Obligees and his aforewritten till the same be fully discharged and cancelled.

NOW THE CONDITION OF THE ABOVE-WRITTEN Bond or Obligation is such that if We the said Obligors or our aforewritten shall and will well and truly pay and retire or cause to be paid and retired all and every promissory note or notes cheques, or cheques I.O.U. chit or chits, thundu or thundus that may be made or endorsed by us or any one of us the said Obligors in favour of the said Obligees and any renewal or renewals thereof is such renewal or renewals shall be agreed by or be acceptable to the said Obligees once or often during the con-30 tinuance of these presents as and when such promissory notes cheques I.O.U. chits and thundus shall fall due or when demand shall be made by the said Obligees and shall and will pay or cause to be paid unto the said obligees and his aforewritten all monies due as principal and interest or otherwise including charges and costs due by reason of non-payment or non-retirement of the said promissory notes cheques I.O.U. chits and thundus or any one of them or renewals or any of them at maturity and shall and will indemnify the said Obligees and his aforesaid from and against all actions suits damages costs and charges they or their aforewritten may be subjected to suffer or be put into by reason or on account 40 of the non-payment or non-retirement of the said promissory notes cheques I. O. U. chits and thundus or any one of them respectively when falling due or when demand shall be made as the case may be and in the event of any renewals being granted by us the said Obligors to the said Obligees or his aforewritten as aforesaid such renewals if permitted shall bear interest at the enhanced eighteen per centum per annum but in the event of us the said Obligor failing to grant such renewals as aforesaid the said

Obligee or his aforewritten shall be entitled to and also be at liberty to charge and recover interest at the enhanced rate of eighteen per centum per annum as aforesaid on such promissory notes cheques I.O.U. chits and thundus that matures for payment and not retired by the said Obligors if the said Obligors fail to renew such defaulting promissory notes cheques I.O.U. chits and thundus and if we the said Obligors shall and will faithfully observe and perform the covenants and agreements herein contained on our part, then the aforewritten Bond and Obligation shall be null and void and of no force or effect. But otherwise shall be
 10 and remain in full force and virtue.

Exhibits
 No. 2D7
 Mortgage
 Bond
 No. 671
 12-4-46
 —continued.

Provided always that if at any time during the continuance of these presents default shall be made by us the said Obligors or our aforewritten in the due payment and retirement of any one or more of the said promissory notes cheques I.O.U. chits or thundus or if the said movables hereby mortgaged or any part thereof be seized and taken in execution of any writ or if We the said Obligors be adjudicated insolvents or if the said movables fully described in the Schedules hereto and every part thereof but not kept and maintained in the manner aforesaid, or if We the said Obligors or our aforewritten shall commit a breach of any of the
 20 other covenant or if execution be levied on the said movables or any part thereof be removed from the said premises in which they are now or if the said movables deteriorate; or if we the said Obligors fail to pay the monthly rental due to the landlord of the premises No. 153, Sea Street Colombo, wherein the movables in the first Schedule and to the landlord of No. 226 Narahenpita Road, wherein the cattle in the second Schedule now lie in respect of that premises or to the land of such other premises to which said movables may be from time to time shifted with the consent and approval of the Obligee hereunder or produce the rent receipts for inspection periodically to the Obligee as and when it is demanded; or
 30 shifted the movables described in the Schedule hereto without the written consent of the Obligee hereunder then and in any such event if shall be lawful for the said obligee or his aforewritten as at once to sue for and recover payment from us the said Obligors or our aforewritten then the total amount of all promissory notes cheques I.O.U. chits and thundus then held by the said Obligee or his aforewritten or by any person or persons or the Bank to which the said Obligee may have endorsed the same together with interest thereon at the aforesaid rates as the case may be from the dates of such documents or from the date of such default as the case may be notwithstanding that all such promissory notes cheques
 40 I.O.U. chits and thundus or any of them may not then have matured for payment or become due according to the respective tenor and meaning thereof and notwithstanding any thing herein contained or in the said promissory notes cheques or I.O.U. chits or thundus contained to the contrary.

PROVIDED further it shall not be lawful for us the said Obligors or our aforewritten to take any objection or plea to the said promissory notes cheques I.O.U. chits or thundus or any of them respectively on the

Exhibits
 No. 2D7
 Mortgage
 Bond
 No. 671
 12-4-46
 --continued.

ground that the same had not been or were not duly stamped or had not been duly presented for payment or that notice of dishonour had not been duly given to any person entitled to notice or dishonour in law or that the same do not comply with the provisions of the Money Lending Ordinance or any other law or any such other grounds.

AND PROVIDED further and it is hereby expressly declared that nothing herein contained shall be held to bind the said Obligees to lend and advance to us the said Obligors monies on promissory notes cheques I.O.U. chits and thundus to the full extent of Rupees Three thousand (Rs. 3,000) but to such extent as to him shall seem safe and expedient. 10

IN WITNESS WHEREOF We the said Obligors have hereunto and to two others of the same tenor and date as these presents set our hands at Colombo on this Twelfth day of April, One thousand Nine hundred and Forty-six.

The Schedule above referred to

1. All those furniture and fittings and all other articles including the stock-in-trade and good will of our business carried on by us the said Obligors under the name style and firm of Sri Ambis Cafe at No. 153, Sea Street, Colombo, consisting of amongst others the following articles, one cash counter, one show-case, three almirahs, one mirror, fifteen large 20 pictures, thirty small pictures, twelve marble tables, thirty-six bentwood chairs, one wooden ice box, one tea boiler, seven brass large chatties, eight small brass chatties, three wooden boxes, eighteen brass cups and tumblers, one grinding stone, four aluminium vessels, four wooden tables and other sundry articles now lying at the said premises No. 153, Sea Street, Colombo, and all other articles and goods and furniture and fittings which may hereafter be brought into the said premises for the said business together with the Cafe License and the Flour and Sugar Permits relative to the said business.

2. The following cattle housed at premises No. 226, Narahenpita 30 Road, Colombo, one Hatton cape cow with female calf, bent horns and bearing brand marks Z10 on the right stomach, one large thuratti buffalo black in colour bearing brand marks : “*அஃA*” and one native buffalo with short horns black in colour bearing brand marks in Sinhalese characters.

(Sgd.) M. RAMACHANDRAN

(Sgd.) In Tamil

Signature of Suppiah Reddiar Vengadasalem.

Witnesses :

1. (Sgd.) In Tamil

Kanapathy.

2. A. R. J. DEEN

(Sgd.) K. RASANATHAN,

Notary Public.

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executants both of whom are known to me and who have signed this instrument in English as "M. Ramachandran" and in Tamil as "Soona Vengadasalem" respectively in the presence of Seena Kanapathy and Abdul Rahaman Jamal Deen both of Sea Street and Hultsdorf respectively in Colombo the subscribing witnesses hereto both of whom are also known to me and who have signed this instrument in Tamil as
 10 "Seena Kanapathy" and in English as "A. R. J. Deen" and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this Twelfth day of April, One thousand Nine hundred and Forty-six.

I further certify and attest that no consideration passed in my presence that the duplicate hereof bears four stamps of Rs. 26 (Twenty-six) and the original a stamp of Re. 1, all of which were duly supplied by me.

Which I attest :

(Sgd.) K. RASANATHAN,
Notary Public.

20 Date of attestation : 12th day of April, 1946.

No. 2D8

Warrant of Attorney No. 672

2 D8

No. 672

Exhibits
 No. 2D7
 Mortgage
 Bond
 No. 671
 12-4-46
 —continued.

No. 2D8
 Warrant of
 Attorney
 No. 672
 12-4-46

To Sanmugam Appacuddy Nalliah, Esquire, Proctor of the Supreme Court of the Island of Ceylon or to any other Proctor of the said Court or of the District Court of Colombo.

THESE ARE to desire and authorise you the said Proctor above-named or any other Proctor of the said Court to appear for us Muthiar Ramachandram and Suppiah Reddiar Vengadasalem both carrying on
 80 business in partnership under the name firm and style of Sri Ambis Cafe No. 153, Sea Street, Colombo, or in any other Court in Ceylon and to accept summons in an action for the recovery of the sum of Rupees Three thousand (Rs. 3,000) by Sunderam Chettiar son of Subramaniam Chettiar carrying on business under the name style and firm of "S.P.M." at No. 71 Sea Street in Colombo or any sum or sums of money that may become due on Mortgage Bond No. 671 dated the 12th day of April, 1946, and attested by the Notary attesting these presents and granted by us the said Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalem both carrying on business under the name style and firm or vilasam "Sri
 40 Ambis Cafe" of No. 153 Sea Street, Colombo, their heirs executors, administrators and assigns and thereupon to confess and said action or

Exhibits
 No. 218
 Warrant of
 Attorney
 No. 672
 12-4-46
 —continued.

else to suffer judgment by default or otherwise to pass against us of record in the District Court of Colombo in any other Court in Ceylon for the said sum interest and costs of suit or for any other Court in Ceylon sum or sums of money that may become due under the Mortgage Bond by No. 671, to consent to the sale of the premises mortgaged by public auction by any Auctioneer or Auctioneers on conditions of sale to be approved by Court.

AND We do hereby further authorise and empower you the said Proctor of the said Court after the judgment shall be entered up as aforesaid for us and in our name to sign and execute a good and sufficient 10 release or releases in the law to the said Sunderam Chettiar son of Subramaniam Chettiar carrying on business under the name style and firm or vilasam "S.P.M." at No. 71 Sea Street, Colombo, or his aforewritten of all manner of appeal or proceedings by way of appeal and all benefit and advantages thereof and defects and imperfections whatsoever had made committed done or suffered in about touching or concerning the said judgment or any proceedings whatsoever in any way concerning the same and for what you the said Proctor or any other Proctor shall do or cause to be done in the premises or any of them shall be to you a sufficient warrant and authority. 20

AND We the said Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalem both carrying on business under the name style and vilasam of "Sri Ambis Cafe" at No. 153 Sea Street, Colombo, doth hereby expressly declare and agree that these presents shall be irrevocable so long as any sum whether by way of principal interest or charge shall be due and owing upon and in respect of or under the said Mortgage Bond No. 671.

IN WITNESS WHEREOF We the said Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalem do hereunto and to two others of the same tenor and date as these presents set our respective hands at 30 Colombo on this Twelfth day of April, One thousand Nine hundred and Forty-six.

We do hereby declare that we are well acquainted with the executant herein named and know his proper name occupation and residences :

(Sgd.) M. RAMACHANDRAN
 (Sgd.) In Tamil
*Signature of Suppiah Reddiar
 Vengadasalem.*

1. (Sgd.) In Tamil
2. A. R. J. DEEN

(Sgd.) K. RASANATHAN
Notary Public.

Signed by the abovenamed Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalam in my presence and I do hereby declare 40 myself to be their Proctor and that I subscribe my name as such their Proctor and that I have read and explained the contents of the above-written warrant and authority to them and that they appeared to under-

stand the nature and effect thereof and that I am chosen and nominated by the said Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalam and that I am attending at his request.

Exhibits
No. 2D8
Warrant of
Attorney
No. 672
12-4-46
—continued.

(Sgd.) C. D. THILLAIWASAM,
Proctor, Supreme Court.

We the undersigned Muthiar Reddiar Ramachandran and Suppiah Reddiar Vengadasalem do hereby state that Canapathipillai Dharmakirti Thillaiwasam, Esquire, Proctor of Supreme Court of the said Island was chosen and nominated by us and that he is attending these presents at
10 our request.

Colombo, 12th day of April, 1946.

(Sgd.) M. RAMACHANDRAN
(Sgd.) In Tamil

Signature of Suppiah Reddiar Vengadasalem

(Sgd.) K. RASANATHAN,
Notary Public.

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary and by
20 Canapathipillai Dharmakirti Thillaiwasam, Esquire, Proctor of the Supreme Court, to the within-named executants who are both known to me and who have signed this instrument in English as "M. Ramachandran" and in Tamil as "Soona Vengadasalem" respectively in the presence of Seena Kanapathy of Sea Street and Abdul Rahaman Jamal Deen of Hultsdorf both of Colombo, the subscribing witnesses hereto both of whom are also known to me and who have signed this instrument in Tamil and "Seena Kanapathy" and in English as "A. R. J. Deen" respectively, the same was signed by the said executants and by the said witnesses and by the
30 said Proctor (in English as "C. D. Thillaiwasam") and by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo on this Twelfth day of April, One thousand Nine hundred and Forty-six.

I further certify and attest that the duplicate hereof bears two stamps of Rs. 6 while the original bears one stamp of Re. 1 all of which were duly supplied by me.

Which I attest :

(Sgd.) K. RASANATHAN,
Notary Public.

Date of attestation : 12th day of April, 1946,

Exhibits
 No. P19
 Letter
 15-4-46

No. P 19
Letter

P 19

No. 26, Milagiriya Avenue,
 Bambalapitiya.
 15-4-1946

THE G. A.,
 W. P., Colombo.

When my grandmother and I had refused to sign certain documents which my uncle Mr. C. S. S. Antony put before us with regard to my grandfather's Estate without showing them to our lawyers and those interested in our welfare, my uncle became very angry and uttered a threat that he would shoot my step-mother now Mrs. Violet Vandort wife of Doctor H. C. Vandort saying that she is responsible for all this.

(Sgd.) IMELDA WEERASEKERA.

No. 1D1
 Power of
 Attorney
 No. 674
 10-4-46

No. 1 D1
Power of Attorney No. 674

1 D1

No. 674

TO ALL TO WHOM THESE PRESENTS SHALL COME, I Alutdura Bridget Fernando Goonesekera also called and known as Bridget Antony, widow of the late Chavalier Conganige Seraphim Antony of Whist Bungalow, Modera Street in Colombo in the Island of Ceylon. 20

Send Greeting :

WHEREAS I am old and feeble and unable to attend to my affairs personally and therefore it has become necessary for me to appoint some fit and proper person to look after manage and administer all my affairs.

NOW KNOW YE AND THESE PRESENTS WITNESS that I the said Alutdura Bridget Fernando Goonesekera also called and known as Bridget Antony had made nominated and appointed and by these presents do make nominate and appoint my son, Simon Stock Antony of Whist Bungalow in Modera Street, in Colombo my true and lawful attorney in the said Island to act for me and on my behalf and in the name of me and my said firm or otherwise for all and each and every of the following purposes that is to say :—

To superintend manage and control the houses, lands, estates, other landed property as also the ships, vessels and boats which I now am or hereafter may become entitled to possess of or interested in and to sell and dispose of or to mortgage and hypothecate or to demise and lease or freight or charter or to convey by way of exchange the houses, lands, estates and other landed property, ships, vessels and boats which I now am or hereafter may become entitled to possess of or interested in,

To sell and dispose of or to ship and consign for sale elsewhere the crops and produce of the estates which I now am or hereafter may become entitled to possess of or interested in and to mortgage the crops and produce of my estates together with buildings tools implements machinery live and dead stock on the said estates or therewith belonging as security for advances against crops or otherwise.

Exhibits
No. 1D1
Power of
Attorney
No. 674
10-4-46
—continued.

To call for and to give and consent to partition of the said lands, houses, buildings and premises or any of them between me and the other proprietor or proprietors thereof.

10 To purchase or to take on lease for me any necessary lands, tenements, or hereditaments as my said attorney shall seem proper.

In the event of any such purchase, sale, lease, exchange, mortgage and hypothecation, partition freight, charter or for any other purpose whatsoever for me and in my name and as my act and deed to sign execute and deliver all deeds and other writings necessary for giving effect and validity to the same respectively or to any contract agreement or promise for effecting the same respectively.

To ask, demand sue for recover and receive of and from all persons liable now or hereafter to pay and deliver the same respectively all sum and sums of money, debts, legacies goods effects and things whatsoever now owing payable or belonging or which shall or may at any time hereafter be due owing and payable coming or belonging to me and on payment or delivery thereof to give sign and execute receipts releases and other discharges for the same respectively and thereupon to manage employ and deal with the same as I could or might lawfully do, and on non-payment or non-delivery thereof or of any part thereof, to commence carry on and prosecute any action or actions, suit or suits, or other proceedings whatsoever before any Court or Courts in the said Island for receiving and compelling the payment or delivery thereof.

30 To state, finally settle and adjust all accounts, reckonings and demands whatsoever between me and any person or persons whomsoever and to compromise disputes and differences and to refer matters to arbitration and to sign and execute all necessary bonds, submissions and references thereof and to enforce any award.

To sell and convert into money all goods, effects or things which now belong or at any time hereafter may belong to me upon such security as my said attorney shall consider good and sufficient and from time to time to vary such investments for other or others of the same or like nature or to release such security.

40 To appear for me before any Court or Courts in the said Island either as plaintiff defendant or intervenient and to sign and grant all necessary proxy or proxies to any Proctor or Proctors of the said Courts and the same from time to time recall and revoke, and to prosecute or defend any suit or suits or other proceedings now or hereafter to be brought by or against me and to proceed to judgment thereon or to suffer judgment by way of default to be entered against me and to admit any claim or claims

Exhibits
 No. 1D1
 Power of
 Attorney
 No. 674
 10-4-46
 —continued.

which may be brought against me in such Court or Courts as my said attorney shall think fit, and against any judgment, order or decree of any of the said Courts to appeal and prosecute such appeal before the Supreme Court of the said Island and from any judgment order or decree of the said Supreme Court to appeal to His Majesty the King in Council and give all necessary securities and sign all bonds for the prosecution of such appeals.

To prove any debt or debts due to me by any person who shall be adjudged an insolvent in any Court or Courts in the said Island and to vote in the election of assignees and to accept any offer or compensation 10 and otherwise to represent and act for me in such insolvency proceedings.

To raise or borrow money upon the security of any assignment or assignments of any bond or bonds or other securities for money belonging to me or to my said firm and to sign all deeds necessary in that behalf.

To obtain accommodation by way of overdraft from any of the local banks in the said Island and to draw cheques to the extent of the overdraft so arranged with or without security.

To draw sign make endorse accept and discount any bill or bills of exchange or promissory note or notes, or bills of lading and to sign and endorse cheques drafts and orders for money. 20

To become security to any person for any purpose whatsoever, and to sign and deliver any deed or writing for the said purpose.

To enter into and execute any covenants, bonds, assignments of bonds, or judgments, mortgages or other securities and warrants, and powers of attorney for confessing judgments in any of the Courts in the said Island and to sign and deliver the same respectively and to attend any meetings of any companies wherein I am shareholder, and to vote for me, on any subject matter or question that may be brought forward at any such meeting at which by the rules and regulations of any such company I can or may vote if personally present, and to grant proxy or 30 proxies to any other person or persons to vote on my behalf for any of the said purposes and generally, to act for me and to execute any and every act, matter or thing in respect of the liquidation or winding up of any such company or otherwise as shall or may be found necessary or expedient.

To operate on my current account with the Bank of Ceylon Colombo and for that purpose to draw and sign cheques on my behalf on the said Bank of Ceylon.

Generally to do execute and perform all such further and other acts deeds matters and things whatsoever which my said attorney shall think 40 necessary or proper to be done in and about or concerning my business, estates, houses, debts or affairs as fully and effectually to all intents and purposes as I might or could do if I were personally present and did the same in my proper person it being my intent and desire that all matters and things respecting the same shall be under the full management control and direction of my said attorney.

AND for more effectually doing, effecting, executing and performing the several matters and things aforesaid, I give and grant unto my said attorney full power and authority from time to time appoint one or more substitute or substitutes to do execute and perform all or any of the matters and things aforesaid and such substitute or substitutes at pleasure to remove and to appoint another or others in his or their places I hereby promising and agreeing to ratify, allow and confirm all and whatsoever my said attorney substitute or substitutes shall lawfully do or casuses to be done in the premises by virtue hereof.

Exhibits
No. 1101
Power of
Attorney
No. 674
10-4-46
—continued.

10 AND I do hereby direct that all acts which shall be had made or done by my said attorney substitute or substitutes, before he or they shall have issued notice of my death or the revocation of the authority contained in these presents shall—binding and valid to all intents and purposes, as if the same had taken place previous to my death or before such revocation, any rule of law or equity to the contrary notwithstanding.

AND it is hereby expressly declared and agreed that as against me and my said firm and any person claiming under me or my said firm every act deed matter or thing which the said attorney substitute or substitutes shall execute or cause to be executed or done or relation to the premises
20 subsequent to the revocation of the powers expressed to be hereby confirmed or any of them shall be binding and conclusive in favour of every person claiming the benefit of such act deed matter or thing who shall not prior to the execution or doing thereof have received express notice of such revocation and it is hereby further declared that no such person shall be bound to inquire or ascertain whether I am living or whether the said powers or any of them have or has been revoked or otherwise determined.

IN WITNESS WHEREOF I do set my hand to three of the same tenor and date as these presents at Colombo this 16th day of April, in
30 the year One thousand Nine hundred and Forty-six.

(Sgd.) BRIDGET ANTONY.

(Sgd.) K. RASANATHAN,

Notary Public.

Witnesses :

1. (Sgd.) A. DON WIMALASIRI
2. (Sgd.) P. THIRUNAVUKARASU

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, duly certify and attest that the foregoing instrument having been read over and explained by me the said Notary to the within-named executant who is known to me and who has signed this instrument in
40 English as “Bridget Antony” in the presence of Attalage Don Wimalasiri of Mutwal and Ponniah Thirunavukarasu of Mutwal both of Colombo the subscribing witnesses thereto both of whom are known to me the same was signed by the said executant and also by the said witnesses and by

Exhibits
No. 1D1
Power of
Attorney
No. 674
10-4-46
—continued.

me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo this Sixteenth day of April, in the year One thousand Nine hundred and Forty-six.

I further certify and attest that the duplicate of this Deed bears a stamp of Five Rupees and that the stamp was supplied by me.

(Sgd.) K. RASANATHAN,
Notary Public.

Date of attestation : 16th April, 1946.

No. 1D5
Hire of Safe
from
Eastern
Bank
29-4-46

No. 1 D5

Hire of Safe from Eastern Bank

10

1 D5

Name : MRS. OLIVER G. DE ZOYZA,
33, Park Avenue, Borella.

Signature : (Sgd.) OLIVER G. DE ZOYZA.

Safe No. : 12.

Key Number : 522.

Period of Hire : One year.

Mrs. de S. will sign Beatrice de Zoyza.

Annual Rent : Rs. 26.

Special Instructions : Either or Survivor to have access to locking.

20

(Sgd.) OLIVER G. DE ZOYZA
(Sgd.) BEATRICE DE ZOYZA

Payment of Rent

Date Paid	Paid to	Amount
		Rs.
29-4-46	... 29th April, 1947	... 26
1-5-47	... 29th April, 1948	... 26

Taking over Locker

Received from the Eastern Bank Ltd. a key for Safe No. 12 in their Safe Deposit Vault which safe is hired by the undersigned, subject to the Rules and Regulations of the said Bank.

30

(Sgd) OLIVER G. DE ZOYZA

29th April, 1946.

No. 1 D5A

Exhibits

Memorandum of Hire of Safe

THE EASTERN BANK LIMITED

Safe Deposit Department

No. 1 D5A
Memorandum of Hire
of Safe
29-4-46

Memorandum of Hire of Safe.

Colombo, 29th April, 1946

The Eastern Bank Limited (hereinafter called the Bank) hereby agree to let, and Mr. & Mrs. Oliver G. de Zoysa, 33, Park Avenue, Borella (hereinafter called the Hirer) hereby agrees to hire subject to the conditions detailed overleaf, the Bank's Safe No. 12 for one year from this day at a rent of Rs. 26 payable in advance.

For and on behalf of
THE EASTERN BANK LIMITED.
(Sgd.) Illegibly.

(Sgd.) OLIVER G. DE ZOYZA
(Sgd.) BEATRICE DE ZOYZA
33, Park Avenue, Borella.

Conditions

1. The Rentals are payable in advance.
- 20 2. The Hirer shall have access to the Safe at any time during the Bank's usual business hours and in accordance with such regulations as shall from time to time be laid down by the Bank.
3. Safe may be Hired in TWO names and in such cases the Hirers must give explicit instructions to the Bank as to whether access to the Safe is to be allowed to either Hirer singly or only to both Hirers jointly.

4.	x	x	x	x
x	x	x	x	x

No. 2 D10

No. 2D10
Safe Deposit
Receipt
29-4-46

Safe Deposit Receipt

30 THE EASTERN BANK LTD.
Safe Deposit Department.

Colombo, 29th April, 1946.

Received from Oliver G. de Zoysa, Esq., Rs. 26 being rent for a period of one year for Safe No. 12 with tin box.

For and on behalf of
THE EASTERN BANK LTD.,
(Sgd.) Illegible,
Accountant.

Exhibits

No. 2D1
Application
No. 2749
for search
of Land
Register
2-5-46

No. 2 D1

Application No. 2749 for Search of Land Register

2 D1

Application for Search of Land Register No. 2749

To THE REGISTRAR OF LANDS, Rajagiriya,

I, K. Rasanathan of Colombo do hereby apply to have access to the register or registers specified overleaf, and to the connected indexes, for the purpose of searching for entries affecting the property described overleaf in connection with one transaction.

I am interested in the above-mentioned registers as Notary instructed 10 by co-owner S. S. Antony to draw and attest a deed.

3. I affix uncanceled stamps of the value of Rs.....in payment of fees under item 1 of Part III of the First Schedule to the Registration of Documents Ordinance (Cap. 101).

4. I authorize the searcher of the Registrar-General's Department to make the said search on my behalf; and I do hereby expressly declare that I absolve the Registrar-General and every officer of his Department from responsibility for any act or omission of the said searcher in regard to such search or to any information that may be given or omitted to be given by him to me. 20

5. I tender herewith a sum of Rupees Two (Rs. 2) in uncanceled stamps in payment of your departmental charges for search.

(Sgd.) K. RASANATHAN.

Date of application : 2-5-1946.

Order of Registrar allowing application.

Allowed :
Intld. G. A. J.
2-5-46.

Division :

A 256/131 & 263/157.

No. P 14

80

No. P14
Additional
Notice of
Assessment
7-5-46

Additional Notice of Assessment

P 14

D. C. Colombo Testy. No. 10451

File No. ED/A 807.

Charge No. 1112/3558

The Estate Duty Ordinance (Cap. 187)

Additional Notice of Assessment

CHEVALIER C. S. ANTONY.....*Deceased.*

To MR. S. S. ANTONY, c/o K. Rasanathan, Esq., Proctor, 161/61 Hultsdorf.
Colombo. 40

Take notice that the estate duty in respect of the estate of the deceased abovenamed has been assessed as follows :—

	Rs.	Exhibits No. P14 Additional Notice of Assessment 7-5-46 —continued.
Nett value of estate as per previous assessment dated 26-7-43...	242,356	
Immovable property—as per List A annexed ...	569,740	

Other Assets

Increase by official valuation of Schedule 4	Rs.	1,367
Sundry Debtors as per Balance Sheet	Rs.	6,562
10 Amount shown in declaration	,,	4,187
		2,375
		3,742
		815,838
Estate Duty on Rs. 815,838 at 7%	...	Rs. 57,108·66
Relief under Sec. 16:		

Deed No.	Nett Value	Estate Duty	Stamp Duty	Allow- ance
	Rs.	Rs. c.	Rs.	Rs.
143	46,000	3,220 00	320	320
144	70,350	4,924 50	563	563
145	30,275	2,119 25	407	407
20 165	95,000	6,650 00	754	754
166	233,500	16,345 00	1,650	1,650
				3,694 00
				53,414 66
Duty charged as per previous assessment dated 26-7-43				12,117 80
				41,296 86

with interest at 4% per annum from 16-5-44.

The above amount is payable by you on or before 7th June, 1946, and should be remitted to the Commissioner of Estate Duty. This form should accompany your remittance.

If you object to the above assessment you must give notice of appeal in writing **WITHIN 30 DAYS** of the date hereof, stating the grounds of objection.

(Sgd.) Illegibly
Assessor, Estate Duty.

Colombo, 7th May, 1946.

Exhibits
No. P14
Additional
Notice of
Assessment
7-5-46
—continued.

List A

Immovable Property

Increase by official valuation of immovable property absolutely owned by the deceased as per List I Rs. 78,450.

				Rs.	
Relief under Sec. 20 (3)	...	Rs.	3,300		
20 (5)	...	"	85	Rs.	8,885
					75,115
Omitted property viz. :					
(1) 17, 17A, 17/1, Modera St.					
official valuation	...	Rs.	10,000		10
(2) 227, 227/5, 6, 14, 16, 18-25,					
31-36) Mutwal Street—					
official valuation	...	"	9,500		19,500
Gifted property :					
Gifted on Deed No. 143—as per List II	...	Rs.	46,000		
" " No. 144 " " III	...	"	70,850		
" " No. 145 " "	...	Rs.	30,500		
per List IV	...				
Relief under Sec. 20 (5)	...	"	225		30,275
Gifted on Deed No. 165—as per List V	...	"	95,000		20
" " No. 166 " " VI	...	"	233,500		475,125
					569,740

List I

List II

Item No.	Increase Rs.	Item No. in Deed No. 143 :	Rs.
1 & 2 Agricultural property	26,500		
House property 1	... 30,000	1	... 40,000
2	... 5,000	2	... 6,000
5	... 15,000		
7	... 1,150		46,000 ⁸⁰
8	... 500		
9	... 60		
10	... 240		
			78,450

List III		List IV		Exhibits
Item in Deed No. 144 :	Rs.	Item No. Deed No. 145 :	Rs.	No. P14 Additional Notice of Assessment 7-5-46 —continued.
1	... 2,250	1 & 2	... 6,000	
2	... 4,300	3	.. 1,750	
3	... 8,000	4 & 6	... 1,750	
4	... 1,800	7	... 12,000	
5	... 54,000	8	... 9,000	
	70,850		30,500	
10				
List V		List VI		
Item No. in Deed No. 165 :	Rs.	Item No. in Deed No. 166 :	Rs.	
1	... 70,000	1	157,500	
2	... 25,000	2	... 30,000	
	95,000	3	... 46,000	
			233,500	

**No. P 16
Letter**

No. P16
Letter
16-5-46

P 16

Colombo, 16th May, 1946

S. S. ANTONY, Esq.,
20 Whist Bungalow, Mutwal.

Dear Sir,

We have been instructed by our client, Miss Mary Imelda Weerasekera of Colombo to request you to be good enough to deliver to us immediately the title deeds of the several properties of which she is owner. These deeds we understand were taken over by you on the death of the late Mr. C. S. Antony.

We are also instructed to request you to send us as soon as possible an accounting of the income of these properties which you have been in charge of since the death of the late Mr. C. S. Antony and also to send us 30 a cheque for all rents collected by you from such properties up to date with a List containing the assessment numbers rents and the names of each of the tenants of these properties.

Pending the compilation of such accounts and lists we are instructed to ask you to send us immediately a cheque for the balance income now in your hands,

Exhibits
 No. P16
 Letter
 16-5-46
 —continued.

We are further instructed to claim from you as administrator of the estate of the late Mr. C. S. Antony our client's share of the rents of the immovable property belonging to the said estate and also her share of the realised value of all movable property belonging thereto.

Kindly acknowledge receipt and give these matters your immediate attention.

Yours faithfully,
 (Sgd.) P. D. A. MACK & SONS.

No. P17
 Letter
 21 May/11
 June 1946

No. P 17

Letter

10

P 17

21st May, 1946

MESSRS. P. D. A. MACK & SONS,
 Proctors, Colombo.

Dear Sirs,

Your letter of the 16th inst. addressed to my client, Mr. S. S. Antony has been handed to me for reply.

I am instructed to inform you that your client is entitled to an undivided quarter share of certain properties duly investorised in D.C. Testy. action 10541/T Colombo. The administration of which estate is not yet over. The final assessment of estate duty in respect of the said estate is not made and consequently my client as administrator is not in a position to make any disbursements at the moment. However my client has made a note of your request and will as soon as the final assessment is made and the estate duty paid, render an account to Court and deposit the balance funds if any in his hands to the credit of the case and inform you, to enable your client to draw her share from Court.

Besides the above administration properties a quarter share of which owned by your client. Your client owns the entirety of premises Nos 465 to 468 Aluthmawatte Road in respect of which my client will send you an account of the income derived less the expenses as from the date of the death of late Chevalier C. S. Antony, which please note.

Yours faithfully,
 (Sgd.) K. RASANATHAN,

No. 1 D4

Letter

1 D4

161/61, Hultsdorf,
Colombo, 11th June, 1946.Exhibits
No. 1D4
Letter
11-8-46MESSRS. P. D. A. MACK & SONS,
Proctors, Fort, Colombo.

Dear Sir,

Your letter of the 16th May addressed to my client, Mr. S. S. Antony, has been handed to me for reply.

10 I am instructed to inform you that our client is entitled to an undivided quarter share of certain properties duly advertised in D. C. Testamentary Action No. 10451/T, Colombo. The administration of which estate is not yet over. The final assessment of Estate Duty in respect of the said estate is not made and consequently my client as administrator is not in a position to make any disbursements at the moment. However my client has made a note of your request and will, as soon as the final assessment is made and the estate duty paid, render an account to Court and deposit the balance funds if any in his hands to the credit of the case and inform you, to enable your client to draw
20 her share from Court.

Besides the above administration properties, a quarter share of which is owned by our client, your client owns the entirety of premises Nos. 466 to 468, Alutmawatte Road, in respect of which, my client will send you an account of the income derived less the expenses as from the date of the death of late Chevalier C. S. Antony, which please note.

Yours faithfully,
(Sgd.) K. RASANATHAN.

No. 1 D2

Letter

301 D2

" Whist Bungalow,"
Modera Street, Mutwal,
Colombo, 4th July, 1946No. 1D2
Letter
4-7-46THE MOTHER SUPERIOR,
St. Bridget's Convent, Colombo.

Dear Rev. Mother,

On or about the 19th May I entered my grand-daughter Miss Imelda Weerasekera as a boarder in your Convent, I then paid Rs. 200 as an advance payment of her boarding fees for which I did not receive an acknowledgment as yet. I should like to hear from you what your fees
40 are monthly and what amount if any is due by me.

Yours faithfully,
(Sgd.) BRIDGET ANTONY.

328

Exhibits
No. 2D5
Letter
30-8-46

No. 2 D5

Letter

2 D5

Colombo, 30th August, 1946

MESSRS. P. D. A. MACK & SONS,
Proctors, Fort, Colombo.

Dear Sirs,

Re Miss M. I. Weerasekera

With reference to the previous correspondence, I now forward herewith a statement of the rents and expenses incurred in respect of her property at Alutmawatte Road property, receipt of which please acknowledge.

The return shows rents included up to 31st December this year and deducting therefrom all repairs, there is a sum of Rs. 1,084.08 due to your client, which has been set off against amounts due by her in the Testamentary accounts, copy of which you can obtain from the record of the case No. 10451/T. D. C., Colombo.

Yours faithfully,
(Sgd.) K. RASANATHAN.

No. P21
Letter
27-3-47

No. P 21

Letter

20

P 21

331, Dam Street,
Colombo, 27th March, 1947

MESSRS. C. S. ANTONY & Co.,
93, Modera Street, Mutwal, Colombo.

Dear Sir,

No. 22, Baillie Street

I write to inquire whether it will be possible for you to rent me a portion of the above premises for an office when the Ceylon Insurance Co. Ltd. vacates the same. I should like to take the portion presently occupied by the Finance Co. or the portion occupied by the Life Department of the Ceylon Insurance Company Limited, please let me know by return and oblige.

Yours faithfully,
(Sgd.) J. A. V. MODDER.

No. P 25

Exhibits
No. P25
Letter
18-6-47

Letter

P 25

13-6-47

St. Bridget's Convent

I do hereby write to Mamma with love as follows :—
Mamma,

Owing to numerous worry I am having in this Convent, I am intending to marry on the 28th instant in the Bambalapitiya Church.

I hope that Mamma will come and meet me and discuss about the necessary arrangements for my marriage. Preparations have been made to publish banns of marriage at St. James' Church on next Sunday. Mamma, come to see me as soon as possible. I am very sorry that I had no opportunity to see Mamma so long. Besides I am feeling very sorry for not having money for my expenses.

Your beloved,
(Sgd.) IMELDA,
(Baby Hamu)

No. 1 D3

No. 1 D3
Letter
3-9-47

Letter

201 D3

Estate Duty Office,
Colombo, September 3, 1947.

C. S. Antony—Deceased

Sir,

With reference to your letters dated 31st May, 1946, and 13th August, 1947, I hereby notify in terms of Section 37 (1) of the Estate Duty Ordinance that I have determined to maintain the assessment dated 7th May, 1947, subject to the deduction of the following debts :—

- (a) from the values of properties 22 and 24, Baillie St., 44 and 46, 4th Cross Street, and 45 and 47, 5th Cross Street, the sum of Rs. 88,532.11 due on Bond No. 702 of 23-7-37.
- (b) from the value of properties 69 and 71, 5th Cross Street, 305 (1-12 and 14-17) and 289, Ferguson's Road, the sum of Rs. 40,615.21 due on Bond No. 745 of 7-10-38.

I am Sir,
Your Obedient Servant,
(Sgd.) T. D. PERERA,
Commissioner of Estate Duty.

K. RASANATHAN, Esq.,
Proctor, Hultsdorf, Colombo 12.

Exhibits
 No. 2D2
 Extract of
 Regis-
 tration
 Entries
 4-11-47

No. 2 D2

Extract of Registration Entries

2 D2

Division : A. Volume : 256. Folio : 131.

Brought forward from Volume A 180, Folio 89.

Name of Land : Whist Bungalow.

Street : Mutwal.

Gravets :

District : Colombo. Province : Western.

Boundaries : E.—Property of W. Juan Fernando and others and Juwan 10
 Pinto, Pedro Mendis and Merennage Thepanis Wass.

S.-E—Modera Street.

S. and S.-W.—Lane.

W. and N.-W.—Kelani Ganga.

Extent : 4A. 2R. 39P.

Date of Registry : 2844, 25th Jany., 1939.

Grantors : George Lionel Cox presently of St. Helier in the Island of Jersey.

Grantees : Oriental Securities Ltd. having its registered Office situate at
 16, Hill Street, St. Helier in Jersey.

Nature etc. : Assignment of the balance sum of Rs. 25,000 due on Mort-20
 gage Bond No. 944, regd. in A 180/89, Cons. Rs. 25,000.

No. and Date of Deed : 845, 18th Jany., 1939.

Name of Notary : G. T. Hale, N. P.

Sig. of Registrar : (Sgd.) D. L. P. Karavita.

Remarks : Asst. No. 4007/47, Modera Street.

Date of Registry : 2845, 25th Jany., 1939.

Grantors : The address of the Assignee in the above regd. Bond No. 845
 is the Orient Securities Ltd., c/o Messrs. Duncum, Watkins, Ford
 & Co., Colombo.

Date of Application : 24th Jany., 1939.

(Sgd.) D. L. P. KARAWITA. 30

Date of Registry : 26418, 6th Sept., 1939.

Grantors : Conganige Seraphim Antony of Whist Bungalow, Mutwal.

Grantees : Narayanapillai Thiagarajah of Mutwal.

Nature and etc.: Secondary Mortgage of the above with the buildings
 thereon for Rs. 20,000 with interest at 6% P. A. payable monthly.

No. and Date of Deed : 169, 26th August, 1939.

Name of Notary : K. Rasanathan, N. P.

Sig. of Registrar : T. de S. Abeyawickrema.

Remarks : Land : Allotment of land called and known as " Whist Bunga-40
 low ", Asst. No. 4007/47 presently Nos. 93, 101, 103, 105 and 107,
 Modera Street, E. property of W. Juwan Fernando and others,
 Juwan Pinto, Pedro, Mendis and Merannage Thepanis Waas.

Date of Registry : 26419, 6th Sept., 1939.

Grantors : The Address of the Mortgagee in the above regd. Mortgage Bond No. 169 is N. Thiagarajah, No. 49, Madampitiya Road, Colombo.

Application dated 5-9-39.

(Sgd.) T. DE S. ABEYAWICKREMA

Exhibits
No. 2D2
Extract of
Registration
Entries
4-11-47
—continued.

Date of Registry : 18391, 25th May, 1943.

Grantors : N. Thiagarajah of Mutwal.

Grantees : Conganege Seraphim Antony of Whist Bungalow.

10 Nature, and etc.: Discharge of the above regd. Mortgage Bond No. 169.

Discharge dated 24-5-43.

(Sgd.) M. L. FERNANDO,
Registrar.

No. 2 D3

Extract of Registration Entries

2 D3

No. 2D3
Extract of
Registration
Entries
4-11-47

Name of Land : Asst. No. 96, 96A to 96F, formerly No. 95 and 96.

Town or Street : Madampitiya Road.

Gravets :

20 District : Colombo. Province : Western.

Boundaries : N.-E. Asst. No. 200, Daniel's Road.

S.-E.—Asst. No. 94 of H. A. de Silva.

S.-W.—Madampitiya Road.

N.-W.—Lof F in P. P. No. 10413.

Extent : 0A. 3R. 32.75P.

Date of Registry : 3669, 27th Jany., 1940.

Grantors : Chartered Bank of India, Australia and China.....*Plaintiff.*

Vs.

30 C. S. Antony carrying on business at Colombo under the name style and firm of C. S. Antony and Company.

Nature, etc.: Decree of Court ordering the payment of Rs. 320,937.99 with interest and costs of suits, etc., by the defendant to the plaintiff and in default sale of the above with the buildings now standing and hereafter to be constructed thereon.

No. and Date of Deed : D. C. Colombo Case No. 10888, 20th Nov., 1939.

Name of Judge : R. F. Dias, D.J.

Sig. of Registrar : B. P. E. de Silva.

Remarks : With lands in folio 154, etc.

Exhibits No. 2D8 Extract of Registration Entries 4-11-47 —continued.	<p>Date of Registry : 10831, 20th Mar., 1943.</p> <p>Grantors : The Chartered Bank of India, Australia & China having its registered Office at 38, Bishop's Gate in the City of London.</p> <p>Grantees : Conganige Seraphim Antony of Colombo.</p> <p>Nature, etc. : Release of the above with the buildings thereon from the Mortgage created and effected by Bond No. 699 registered in A 221/200 and from the relative decree entered in Action No. 10888 registered above. Cons. Rs. 25,000.</p> <p>No. and Date of Deed : No. 95, 3rd March, 1943.</p> <p>Name of Notary : E. Ludovici, N. P. 10</p> <p>Sig. of Registrar : B. P. E. de Silva.</p> <p>Date of Registry : 27696, 5th August, 1943.</p> <p>Grantors : Simon Stock Anthony of Whist Bungalow, Modera.</p> <p>Grantees : Christopher Emmanuel, Secretary, District Court, Colombo.</p> <p>Nature, etc.: Mortgage of undivided one-fourth of the above with the buildings thereon for Rs. 25,000 as security for the due administration of the Estate—late Chevalier C. S. Antony of Colombo.</p> <p>No. and Date of Deed : 374, 3rd August., 1943.</p> <p>Name of Notary : K. Rasanathan, N. P.</p> <p>Sig. of Registrar : B. P. E. de Silva. 20</p> <p>Remarks : With land in folio 158.</p>
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No. P13
 Statement of
 Debts
 payable on
 the Bonds

No. P 13			
Statement of Debts Payable on the Bonds			
Mortgage Bank.			
Bond No. 745—Loan Burrowed Rs. 45,000			
		Total Payable	
		Rs.	c.
April, 1939 to April, 1943 : Chevalier C. S. A. paid 9 Instalments at Rs. 1,586·61	... ..	14,279	49 80
Oct., 1943/April, 1946 : Mrs. B. Antony paid 6 instalments at Rs. 1,586·61	... ..	9,519	66
Oct., 1946/Oct., 1947 : S. S. Antony paid 3 instalments at Rs. 1,586·61	... ..	4,759	83
		28,558	98
To pay till October, 1963, 32 instalments at Rs. 1,586·61...		50,771	52
		79,830	50

Mortgage Bank

Bond No. 702—Loan Burrowed Rs. 100,000

		Rs.	C.	Exhibits No. P13 Statement of Debts payable on the Bonds —continued.
Jany., 1938/Jany., 43 :	Chevalier C. S. A. paid 11 instalments at Rs. 3,525·81	...	38,783	91
July, 1943/Jany., 46 :	Mrs. B. Antony paid 6 instalments at Rs. 3,525·81	...	21,154	86
July, 1946/July, 47 :	S. S. Antony paid 3 instalments at Rs. 3,525·81	...	10,577	43
			<hr/>	
			70,516	20
¹⁰	To pay till 1962 : 30 instalments at Rs. 3,525·81	...	105,774	30
			<hr/>	
			176,290	50
			<hr/>	

No. 2 D9

List of Properties

No. 2D9
List of
Properties
(Undated)

- 2 D9
1. Whist Bungalow.
 2. Bloemendhal.
 3. Hellond House.
 4. Nook.
 5. Tea Stores.
 6. 17 and 17A, Barber Saloon, Modera Street.
 7. 10-12, Modera Street.
- ²⁰

No.....

Supreme Court of Ceylon
No. 584 (Final) of 1949

District Court, Colombo
No. 175/ZL

*In His Majesty's Privy Council
on an Appeal from the Supreme Court of Ceylon*

BETWEEN

MRS. BRIDGET ANTONY of Whist
Bungalow, Modera Street, Mutwal,
Colombo,.....*Plaintiff-Appellant,*

AND

1. MISS IMELDA WEERASEKERA, and
2. OLIVER GILES DE ZOYSA, both of
Park Avenue, Borella, Colombo.....*Defendants-Respondents.*

RECORD OF PROCEEDINGS
