

151969



IN THE PRIVY COUNCIL

No. 33 of 1966

ON APPEAL FROM THE COURT OF APPEAL
FOR SIERRA LEONE

B E T W E E N :-

JOSEPH ALLEN SMITH (Plaintiff)

Appellant

- and -

1. FATULA CHRISTIANA WALKER
2. TAIWO VICTORIA EDWARDS
(Defendants)

Respondents

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON
 INSTITUTE OF ADVANCED
 LEGAL STUDIES
 - 9 MAR 1970
 25 RUSSELL SQUARE
 LONDON, W.C.1.

T.L. WILSON & CO.,
6, Westminster Palace Gardens,
Artillery Row, S.W.1.
Solicitors for the
Appellant.

CREE, GODFREY & WOOD;
13, Grays Inn Square,
London, W.C.1.
Solicitors for the
Respondents.

: ON APPEAL FROM THE COURT OF APPEAL
FOR SIERRA LEONE

B E T W E E N :-

JOSEPH ALLEN SMITH (Plaintiff)
Appellant

- and -

1. FATULA CHRISTIANA WALKER
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RECORD OF PROCEEDINGS

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IN THE PRIVY COUNCIL

No. 33 of 1966

In the
Supreme Court

ON APPEAL FROM THE COURT OF APPEAL
FOR SIERRA LEONE

No. 1.

B E T W E E N :- JOSEPH ALLEN SMITH (Plaintiff)
Appellant

Writ

8th June 1964

- and -

1. FATULA CHRISTIANA WALKER
2. TAIWO VICTORIA EDWARDS
(Defendants)
Respondents

*0

RECORD OF PROCEEDINGS

No. 1.

WRIT

C.C.No. /64. 1964. S. No.

Sierra Leone

(To wit)

IN THE SUPREME COURT OF SIERRA LEONE

20 Between Joseph Allen Smith Plaintiff

- and -

Fatula Christiana Walker
81, Kissy Road, Freetown
Taiwo Victoria Edwards
8, Malta Street, Freetown.
Defendants

ELIZABETH THE SECOND QUEEN OF Sierra Leone and
of Her Other Realms and Territories, Head of
the Commonwealth.

In the
Supreme Court

No. 1.

Writ

8th June 1964

Contd.

To: Fatula Christiana Walker of 81 Kissy Road,
Freetown.

Taiwo Victoria Edwards of 7, Malta Street,
Freetown both in the Western Area of
Sierra Leone.

We command you that within 8 days after
the service of this Writ on you, inclusive of
the day of such service, you do cause an
appearance to be entered for you in the
Supreme Court of Sierra Leone in an Action at
the Suit of Joseph Allen Smith and take notice
that in default of your so doing the plaintiff
may proceed therein, and judgment may be given
in your absence.

10

Witness the Honourable Samuel Bankole
Jones, Esq., Chief Justice of Sierra Leone at
Freetown, the 8th day of June in the year of
our Lord 1964.

(Sgd) A. Nithianandan
Master and Registrar

20

N.B. This writ is to be served within twelve
calendar months from the date thereof, or if
renewed, six calendar months from the date of
the last renewal including the day of such
date, and not afterwards. The Defendant,
may appear hereto by entering an Appearance
either personally or by Solicitor at the
Master's Office Supreme Court of Sierra Leone.

The Plaintiff's claim

(1) That the deed of gift dated the 6th day
of October, 1953 and made between Ransolina
Patience Cromanty now deceased late of 24,
Crook Street, Freetown and Executrix of the
Will of Jacob Williamson Sawyerr AND the
defendants herein registered as page 15 in
Volume 39 of the Books of Voluntary Conveyance,
be set aside with all proper consequential
directions.

30

3.

(2) Costs.

In the
Supreme Court

(3) Such further or other relief as is just.

No. 1.

(Sgd) D. Luke,
Plaintiff's Solicitor

Writ

8th June 1964

10

This Writ was issued by DESMOND E.F. LUKE of
and whose address for service is 14, Pultney
Street, Freetown Solicitor for the Plaintiff who
resides at 7, Lucas Street, Freetown in the
Western Area of Sierra Leone.

Contd.

(Sgd) D. Luke
COUNSEL

NO. 2.

No. 2.

STATEMENT OF CLAIM

Statement
of Claim

C.C.No. 176/64

1964

S.37

8th October
1964

IN THE SUPREME COURT OF SIERRA LEONE

JOSEPH ALLEN SMITH - PLAINTIFF

&

20

FATOLA CHRISTIANA WALKER -
& DEFENDANTS
TAIWO VICTORIA EDWARDS

STATEMENT OF CLAIM

30

Jacob Williamson Sawyerr late of Accra in
Ghana (formerly the Gold Coast Colony) was
seised in fee simple absolute of hereditaments
and premises with buildings thereon situated at
Fourah Bay Road, Malta Street, Lucas and Farm
Land at Fourah Bay Road all in Freetown in the
Western Area of Sierra Leone (formerly the
Colony of Sierra Leone).

2. The said Jacob Williamson Sawyerr died on
the 15th day of August 1916 having made and

In the Supreme Court

No. 2.

Statement
of Claim

8th October
1964

Contd.

duly executed his last Will and Testament dated the 30th day of May, 1908 probate whereof was on the 14th day of October 1918 committed and granted at Accra in the Gold Coast Colony aforesaid to Ransolina Patience Cromanty the then sole surviving executrix and trustee under the Will of the said Jacob Williamson Sawyerr (deceased).

3. In the said Will the said Jacob Williamson Sawyerr inter alia made the following devise :- 10

"I devise and bequeath my freehold lands with the buildings therein situate at Fourah Bay Road Malta Street, Lucas Street and Farm land at Fourah Bay Road, all in Freetown Sierra Leone to my brothers Richard William James Beresford and my sister Ransolina Patience Cromanty, and to my daughters Georgiana Lucretia and Jane Alice all in equal share and it is express desire that these lands be not sold but that they must descend from children to children". 20

4. Richard William and James Beresford referred to in the aforesaid devise pre-deceased the testator Jacob Williamson Sawyerr.

5. Jane Alice referred to in the said devise was married to a certain Emmanuel Onesimus Smith and became known as Jane Alice Smith. 30

6. The said Jane Alice Smith died on the 24th day of December 1957 having made and duly executed her last Will and Testament dated the 11th day of December, 1957, probate whereof was on the 27th day of February, 1958 committed and granted by the Supreme Court to the executors and trustees therein named.

7. By her said Will the said Jane Alice Smith inter alia made the following devises :-

In the
Supreme Court

para. 12 "I devise my share of arrears of rent due me during my lifetime in the property situate at Fourah Bay Road in Freetown aforesaid now being used as Saint Philips Church Parsonage to all my male children mentioned in this will".

No. 2.

Statement
of Claim

8th October
1964

10 para. 13 "I give devise and bequeath the rest and residue of my estate (real and personal) not herein devised by this my Will to all my male children share and share alike and I direct that any benefit which under this my Will may become vested in any female herein or hereafter to be born married or to become married shall be for her sole and separate estate free from the debts control engagements interference or liabilities of any husband."

20

Contd.

8. The property referred to in paragraph 12 of the Will of the said Jane Alice Smith is the freehold land with the buildings thereon situate at Fourah Bay Road, referred to in the devise of the Will of the said Jacob Williamson Sawyerr (deceased).

30 9. Georgiana Lucretia was married to a certain Rose and became known as Georgiana Lucretia Rose.

10. The said Georgiana Lucretia Rose died on the 16th day of April, 1963 a widow and intestate without any lawful issue.

11. Ransolina Patience Cromanty aforesaid registered the will and probate thereof of the testator Jacob Williamson Sawyer deceased obtained at Accra aforesaid on the 11th day of July 1918 and thereafter intermeddled in the

In the
Supreme Court

No. 2.

Statement
of Claim

8th October
1964

Contd.

freehold lands with the buildings thereon of the testator Jacob Williamson Sawyerr situate at Fourah Bay Road, Malta Street, Lucas Street and Farmland at Fourah Bay Road all in Freetown Sierra Leone and on the 6th day of October, 1953 by a Deed of Gift conveyed 98 Fourah Bay Road one of the Freehold lands referred to in the Will of the testator Jacob Williamson Sawyerr as "Fourah Bay Road", to the defendants herein and died on the 7th day of March, 1957, without obtaining probate of the Will of the testator in Sierra Leone nor resealing the Grant of Probate obtained by her at Accra aforesaid in Sierra Leone.

10

12. The Plaintiff herein is one of the lawful children and a residue legatees and devisees of the Will of the said Jane Alice Smith deceased.

13. The defendants herein are two of the natural children of the said Georgiana Lucretia Rose deceased.

20

14. The Plaintiff therefore claims that this Honourable Court will be pleased to declare that:

- (1) The deed of gift dated 6th October, 1953 referred to in paragraph 11 above registered as Page 15 in Vol. 39 of the Books of Voluntary Conveyances in the Registrar-General's Office Freetown be set aside with all proper consequential directions.

30

THE PLAINTIFF ALSO CLAIMS

- (a) Costs
(b) Such further or other relief as is just.

(Sgd) D. Luke,
Plaintiff Solicitor.

Delivered and filed this 8th day of October, 1964 by D.E.F. Luke of 21/23, Westmoreland Street, Freetown pursuant to the Rules of the Supreme Court.

40

NO. 3.
DEFENCE

In the
Supreme Court

C.C.126/64 1964. S. No. 37

No. 3.

IN THE SUPREME COURT OF SIERRA LEONE

Defence

BETWEEN: JOSEPH ALLEN SMITH PLAINTIFF

14th November
1964

Vs.

Contd.

FATOLA CHRISTIANA WALKER

and

10

TAIWO VICTORIA EDWARDS
DEFENDANTS

DEFENCE

20

1. The defendants say that by virtue of an Indenture of Conveyance dated the 6th day of October, 1953 and duly Registered in Volume 39 at page 15 of the Books of Voluntary Conveyances kept in the office of the Registrar-General, Freetown, they are the owners of fee simple of the premises situate at and known as No. 98, Fourah Bay Road, Freetown, in the Western Area of Sierra Leone.

2. The defendants aver that the Grantor Ransolina Patience Cromanty therein named in the Indenture aforesaid was possessed of and otherwise well entitled to grant the said premises No. 98, Fourah Bay Road, Freetown, to them.

30

3. The defendants further aver that one James Beresford Sawyerr an elder brother of the said Ransolina Patience Cromanty, was owner in fee simple in possession of the premises now known as No. 98, Fourah Bay Road, Freetown.

In the
Supreme Court

No. 3.

Defence

14th November
1964.

Contd.

4. The defendants also aver that the said James Beresford Sawyerr died in Freetown aforesaid in or about the year 1909 so seised and possessed of the said land and premises known as No. 98 Fourah Bay Road, Freetown.

5. The defendants say that Jacob Williamson Sawyerr mentioned in paragraph 1 of the Statement of Claim, left Sierra Leone in or about the year 1872 for Ghana (then Gold Coast),¹⁰ and resided there permanently until his death.

6. The defendants further say that on the death of James Beresford Sawyerr mentioned in paras. 5 & 6 hereinabove, the said Ransolina Patience Cromanty went into possession, full, free and undisturbed, of the said premises No. 98, Fourah Bay Road aforesaid, and solely enjoyed the rents and profits thereof, on her own right.

7. The defendants plead the Limitations Act. 20

8. Save as hereinabove set forth, the defendants deny each and every the allegations contained in the Statement of Claim, as if the same were herein set out seriatim and specifically traversed.

Dated the 14th day of November 1964.

(Sgd) E.J. McCormack
Defendants' Solicitor.

DELIVERED and FILED by Edward Jackson McCormack of No. 11, Regent Road, Freetown, Solicitor for 30 the Defendants, pursuant to Rules of Court.

No. 4.

NO.4
PROCEEDINGS

Proceedings

16th November
1964

Monday 16th November, 1964 Before the Hon. Mr. Justice R.W.Beoku-Betts, Ag. P.J.

Mr. D.E.F.Luke for Plaintiff/Applicant.
Mr. McCormack for Defendant.

Mr. McCormack states that he has filed a defence which is on the record and asks the Court to take cognizance of it.

In the
Supreme Court

No. 4.

I allow the defence to stand costs for the applicant in favour of the plaintiff.

Proceedings

(sgd) R.W. Beoku-Betts.

16th November
1964

Contd.

10 Thursday 16th Before the Hon. Mr. Justice
September, 1965. C.O.E. Cole Ag. C.J.

16th September
1965

Mr. Desmond E. Luke for the Plaintiff.
Mr. Beccles Davies deputising for Mr.
McCormack for Defendant.

Adjourned to 19.10.64 for hearing.

(sgd) C.O.E. Cole,
Ag.C.J.

Tuesday 19th Before the Hon. Mr. Justice
October, 1965. C.O.E. Cole, P.J.

19th October
1965

20 D.E.F. Luke for the Plaintiff
McCormack for the Defendants.

Mr. Luke - Most of the facts in this case is Res Judicata between the parties - Almost all the significant facts are Res Judicata - having been established by two cases - one in the Supreme Court of Sierra Leone - C.C.58B/8 1958 - S.No.10. Re other Appeal Court of Sierra Leone S.L. App. 14/61.

30 Defendants herein were not defendants in those two actions - defendants in those two actions were Executors of the Estate R.P. Cromanty deceased.

Relationship between defendants and Estate of R.P.Cromanty deceased: is that defendants

In the
Supreme Court

No. 4.

Proceedings

19th October
1965

Contd.

derived title to No. 98 Fourah Bay Road from a Deed of Gift where the Donor was R.P. Cromanty deceased. Position is that R.P. Cromanty deceased could not give any better title than she herself had - plaintiff herein is one of the plaintiffs in those two actions where it was decided that the plaintiffs are beneficially interested in 98 Fourah Bay Road and that R.P. Cromanty had intermeddled as Executor de bon tort in the estate - plaintiff would therefore have to litigate all over again. 10

Mr. Luke opens case - Action in which Plaintiff seeks to set aside a Deed of Gift dated 6.10.53 made between one Ransolina Patience Cromanty now deceased late of No. 14 Crook Street, Freetown and Executrix of Will of Jacob Williamson Sawyerr and the defendants registered at Page 15 15 Vol. 39 Register of Voluntary Conveyances - Grounds set out in the Statement of Claim - basically that Donor was not the owner in fee simple or otherwise of 98 Fourah Bay Road - She was in fact an executrix de bon tort of the estate of Jacob Williamson Sawyerr late of Accra in Ghana which estate comprised 98 Fourah Bay Road and other properties - Reads Statement of Claim. 20

Note - 14th day of October 1918 in line 4 of Statement of Claim should read "14th October, 1916".

Ransolina Cromanty did not take probate in Sierra Leone nor did she reseal the probate obtained in Accra in Sierra Leone. 30

Ransolina Cromanty had a share in No. 98 Fourah Bay Road as a tenant in common.

Reads defence - Ransolina Patience Cromanty was well possessed of and entitled to the property in question - defendants rely on the Limitation Act. No Reply filed.

Mr. Luke - At this stage I ask for an adjournment on the ground that we could not go very far with the evidence - Only evidence of Plaintiff available - This could not take the Court very far - It would be preferable if all the evidence be taken together.

In the Supreme Court

No. 4.

Proceedings

Mr. McCormack - I will not oppose the application but I ask for costs for today to be assessed at Le.4.20 cents.

19th October 1965

Contd.

10

Mr. Luke - I undertake to pay today's costs assessed at Le.4.20 cents.

Adjourned to 27.10.65 for hearing Costs for today assessed at Le.4.20 cents to defendants' Solicitor to be paid by the Plaintiff.

(Sgd) C.O.E.Cole,
Ag.C.J.
19.10.65

20

NO.5.
EVIDENCE OF JOSEPH ALLEN SMITH

Plaintiff's Evidence

Wednesday 27th Before the Hon.Mr.Justice
October, 1965. C.O.E.Cole, Ag.C.J.

No. 5.

Plaintiff in person
Mr. E.J.McCormack for the Defendants.

Joseph Allen Smith

Examination

30

Plaintiff S.O.B.S. in English - Joseph Allen Smith - 7, Lucas Street, Freetown - Civil Servant - I have brought this action to set aside a Deed of Gift dated 6.10.53 made between Ransolina Patience Cromanty and Fatula Christiana Walker and Taiwo Victoria Edwards - The deed is registered in Vol. 39 at page 50 Book of Voluntary Conveyances -

Note

Mr. Desmond Luke now appears for the plaintiff.

Witness continues - Property was part of the

In the
Supreme Court

Plaintiff's
Evidence

No. 5.

Joseph Allen
Smith

Examination

Contd.

estate of Jacob Williamson Sawyerr deceased -
Died in Ghana - Accra on or about the 15th
day of August, 1916 - testate - He left a Will
dated 30.5.1908. No Probate of that Will was
taken out of this Court - in Sierra Leone - One
was taken out in Ghana - Probate granted to
Ransolina Patience Cromanty - only surviving
Executor at the death of the Testator - The
Deed of Gift in question relates to property
No. 98 Fourah Bay Road, Freetown. House and
land - The Will of the Testator specifically
dealt with this property No. 98, Fourah Bay
Road - I cannot now tell how many children of
the testator had - My mother was one - the
eldest - Jane Alice Smith (nee Sawyerr) - My
mother died on 24.12.57 - testate leaving a
Will dated 11.12.57 - Probated by the executors
named therein Jacob Williamson Sawyerr (Junior)
and my brother Ernest Onesimus Smith - No. 98
Fourah Bay Road was dealt with in my mother's
will. Mother devised her interest in No.98
Fourah Bay Road to all her male children - I
am one - not specifically named - I am a
lawful child - Probate of the Will of Jacob
Williamson Sawyerr was not resealed in Sierra
Leone - Will was registered in Sierra Leone -
Mrs. Cromanty went into possession of No. 98
Fourah Bay Road by her tenants - She went into
possession of No. 98 Fourah Bay Road in her
capacity as executrix and trustee - There are
documents in my possession in support of this
namely -

10

20

30

1. By a Deed of Conveyance dated 16th day of
November, 1932 made between Ransolina
Patience Cromanty as executor and trustee
of Jacob Williamson Sawyerr to Joseph
Christopher Metzger registered at Vol.
130 page 106 of the Register of
Conveyances at the office of the
Registrar-General relating to portion of
No. 98 Fourah Bay Road.

40

At this stage Mr. McCormack objects to this bit of the evidence on the ground that the evidence is of no relevance to the issue - It has not been pleaded. Court - Objection upheld.

In the
Supreme Court

Plaintiff's
Evidence

No.5.

Joseph Allen
Smith

Examination

Contd.

Ransolina Cromanty also rented property to St. Philips Church.

10 She made a deed of Gift in 1953 relating to the property - 98 Fourah Bay Road another part of that property - Ransolina Cromanty continued after 1953 to receive the rents and profits of No. 98 Fourah Bay Road - No. 98 Fourah Bay Road has been the subject matter of proceedings before the Supreme Court between myself as one of the plaintiffs and the executors of Ransolina Cromanty No. C.C.85B/5 1958 S.No.10 -
20 There was an appeal against the judgment in that case to the Sierra Leone Court of Appeal - S.L.App. 14/61 - Appeal was dismissed with costs. This property in question was one of the properties affected in those proceedings.

30 Xxd. by McCormack - Jacob Williamson Sawyerr in his Will specifically referred to No. 98 Fourah Bay Road - He described it as "my property at Fourah Bay Road" that meant No.98 Fourah Bay Road - Jacob Williamson Sawyerr had documents to show he owned No. 98 Fourah Bay Road - I refer to a Mortgage Deed dated 14.5.1895 made between James Beresford Sawyerr and Jacob Williamson Sawyerr registered at Vol.14 page 205 Register of Mortgages Registrar-General's Office - Freetown - Jacob Williamson Sawyerr did not refer to any mortgaged property in his will - don't know any person named James Beresford Sawyer - I understand he was grand uncle - It is true that Jacob Williamson Sawyerr left Sierra Leone in 1872 - He died in 1918 - He came in 40 1906 - I was not yet born - There is no foreclosure proceedings to the mortgage to which I have referred - I don't know when

Cross-
Examination

In the Supreme Court

Plaintiff's Evidence

No. 5.

Joseph Allen Smith

Cross-Examination

Contd.

Re-Examination

James Beresford Sawyerr died - I am not sure whether my mother had any portion of rent of 98 Fourah Bay Road during her lifetime - I am not sure whether she brought any action relating to No. 98, Fourah Bay Road.

Q. Why do you say that Ransolina Cromanty went into possession of 98 Fourah Bay Road as Executrix and Trustee.

A. She said so. She also stated so in the document I have already referred to.

10

James Beresford Sawyerr, I think, died first before Jacob Williamson Sawyerr.

Rexd. by Luke - I am not sure whether James Beresford Sawyerr predeceased Jacob Williamson Sawyerr. I know there were no foreclosure proceedings. I have searched - Jacob Williamson Sawyerr was owner in fee simple of certain of properties in Freetown including No. 98 Fourah Bay Road.

20

No. 6.

Ernest Onesimus Smith

Examination

NO.6.

EVIDENCE OF ERNEST ONESIMUS SMITH

2 P.W. S.O.B.S. in English Xd. by Luke - Ernest Onesimus Smith - 8 Easton Street, Freetown - Gentleman - I am an Executor of the estate of Jane Alice Smith mother of Plaintiff - her father was Jacob Williamson Sawyerr - Probate of her estate was granted on 27.2.58 to myself and Jacob Williamson Sawyerr (Junior). I produce the Probate - original - tendered and marked "A".

30

Cross-Examination

Xxd. by McCormack - Jane Alice Smith was also my mother - I see para. 12 of the Will attached to Ex. "A" - I have not yet taken any steps to recover as directed in para.12 - Arrears of rent was to go to all her male

children - Male children are Ernest Onesimus Smith - Daniel Williamson Smith - Joseph Allen Smith - Joshua Alake Smith - Edgar Oluwole Smith - Object of this action is for the recovery of arrears of rent due under para.12 of the Will - I am one of the parties to this action.

In the Supreme Court

Plaintiff's Evidence

No. 6.

No Rextion by Luke.

Ernest Onesimus Smith

Cross- Examination

Contd.

No. 7.

NO.7.

EVIDENCE OF OMRIE MICHAEL GOLLEY

3 P.W. S.O.B.S. in English Xd. by Luke - Omrie Michael Golley - Acting Master and Registrar - Supreme Court - I have custody of case file No. C.C.85B/58 1958 S. No. 10 Jacob Williamson Sawyerr and Ors. vs. Georgiana Lucretia Rose & 3 Ors. as Executors of the estate of R.P. Cromanty deceased. I tender the file.

Omrie Michael Golley

Examination

McCormack objects -

1. No relevance of this evidence to the matter before Court. Not pleaded in the pleadings.
2. Parties are not the same as in this case. Evidence inadmissible.

Mr. Luke - Evidence has been led by the 1st Plaintiff that property 98 Fourah Bay Road subject matter of the Deed of Gift which it is sought to set aside - has been litigated with the plaintiff herein as one of the Plaintiffs and the Grantor's Executors - Evidence most relevant - This is a matter of evidence.

Adjourned to 8.11.65 for further arguments.

(sgd) C.O.E.Cole, Ag.C.J.
27.10.65.

10

20

30

40

In the
Supreme Court

NO. 8.
PROCEEDINGS.

No. 8.
Proceedings
8th November
1965

Monday 8th Before the Hon.Mr. Justice
November, 1965 C.O.E.Cole, Ag.C.J.

Desmond Luke for the plaintiffs.
McCormack for the Defendants.

Mr. Luke - I ask leave of the Court to file and deliver a Reply - In view of the evidence that has been produced - this application is necessary so that all the main issues will be before the Court and finally be disposed of between the parties. 10

McCormack - I do not know under what Rule application is being made - Refers to O.24 r.1 Local Supreme Court Rules - I do not press provided consequential directions are given and on terms.

Court - In order to avoid multiplicity of legal proceedings and the real substantial questions between the parties disposed of I grant the application of the following terms - 20

1. The proposed Reply to be delivered and filed by the plaintiffs' Solicitor within 5 days from date hereof.
2. Rejoinder if any, to be delivered and filed within 3 days of date of delivery of Reply.
3. Entry for trial and notice of trial already filed to stand. 30
4. Plaintiffs to pay to defendants all costs thrown away up to and including today in any event.
5. Case to come up for further hearing on Wednesday 1st December 1965.

(sgd) C.O.E.Cole, Ag.C.J.
8.11.65.

NO.9.
REPLY

In the
Supreme Court

No. 9.

C.C.176/64 1964 S. No. 37

Reply

November 1965

IN THE SUPREME COURT OF SIERRA LEONE

BETWEEN:- JOSEPH ALLEN SMITH - PLAINTIFF

- and -

FATOLA CHRISTIANA WALKER &
TAIWO VICTORIA EDWARDS DEFENDANTS

10

REPLY

1. The subject matter of the deed of gift herein namely 98, Fourah Bay Road, Freetown has been the subject of litigation in action C.C.85B/58 - 1958 S. No. 10 in the Supreme Court of Sierra Leone, and appeal No. S.L.App.14/61 in the Sierra Leone Appeal Court wherein the plaintiff herein was one of the plaintiffs and the executors of the grantor of the deed of gift the said Fansolina Patience Cromanty deceased were the defendants.

20

2. The Plaintiff joins issue with the defendants their defence save in so far as the same consists of admissions.

(Sgd) D. Luke,
PLAINTIFF'S SOLICITOR.

DELIVERED AND FILED this day of November.
1965 by Desmond E.F.Luke of 21/23, Westmoreland
Street, Freetown, Solicitor for the Plaintiff.

In the
Supreme Court

NO. 10
REJOINDER

No. 10.

C.C.176/64

1964

S. No. 37

Rejoinder

IN THE SUPREME COURT OF SIERRA LEONE

13th November
1965

BETWEEN:- JOSEPH ALLEN SMITH - Plaintiff

- and -

FATOLA CHRISTIANA WALKER and
TAIWO VICTORIA EDWARDS - Defendants

REJOINDER

10

1. The Defendants join issue with the Plaintiff on his REPLY herein.
2. The Defendants say that they were not parties to the Action referred to in paragraph 1 of the Plaintiff's REPLY herein.
3. The defendants further say that the Cause of Action in the proceedings referred to in paragraph 1 of the Plaintiff's REPLY, and the Cause of Action in the present proceedings are not one and the same.
4. The Defendants would object in point of Law that the Plaintiff's REPLY affords no answer to the DEFENCE herein.

20

(Sgd) E.J.McCormack
Defendants' Solicitor.

DELIVERED AND FILED this 13th day of November 1965 pursuant to the ORDER of Mr. Justice C.O.E.Cole, Ag. C.J., made herein the 8th day of November, 1965.

This REJOINDER is filed by Edward Jackson McCormack of No. 11 Regent Road, Freetown, Solicitor for the Defendants.

30

NO. 11
PROCEEDINGS

In the
Supreme Court

Wednesday 1st
December 1965

Before the Hon. Mr. Justice
A.E. Dobbs, P.J.

No. 11

Proceedings

Desmond Luke for Plaintiff
McCormack for Defendant

1st December
1965

Adjourned to 14th December, 1965

(sgd) A.E. Dobbs, J.

10 Tuesday 14th

Before the Hon. Mr. Justice
C.O.E. Cole, Ag. C.J.

14th December
1965

Mr. D.E.F. Luke for the Plaintiff
McCormack for the Defendant.

NO. 12
EVIDENCE OF OMRIE MICHAEL GOLLEY
(Continued)

Plaintiff's
Evidence

No. 12

20 3 P.W. still on Oath Xd. by Desmond Luke - I now
produce case file.
McCormack objects.

Omr
Michael
Golley

Refers to Reply filed - also Rejoinder - submits
a Reply must be confined to matters arising out
of defence - Any other matter would be a depart-
ure from the pleadings.

Examination
(continued)

30 Refers to 1962 Annual Practice - 0.23 Rule 1 -
Rubric "Contents of Reply" - Reply no answer to
defence filed - Reply has raised matters not
pleaded in the Statement of Claim - Outside
defence - New issues raised which are not
pleaded in the statement of claim nor in the
defence - Evidence cannot now be received until
objections of law resolved one way or the other.

In the
Supreme Court

Plaintiff's
Evidence

No. 12

Omrie
Michael
Golley

Examination
(continued)

Luke - Objection untenable - Reply before Court - Refers to paras. 1, 2 and 7 of defence - Case file sought to be produced is of relevance to the main issues in the Statement of Claim and defence. O.25 r.4 states procedure to be adopted if Reply is not in place - Refers to p.575 1962 Annual Practice - Proper Procedure not adopted - objection is not of relevance to the admissibility of evidence.

McCormack - Reply is in effect an estoppel - Point of law one to be decided before the final issues are determined - Necessary to determine whether Reply filed is in answer to the defence - Submission of Waiver is of no substance - Rejoinder filed pursuant to an Order of this Court - Point of law raised in the Rejoinder that Reply not in accordance with proper practice. 10

Court - With respect, the objection of Mr. McCormack goes to the point as to whether or not the Reply filed is proper. That in my considered view has nothing to do with the admissibility of evidence. The Reply raises an issue which has to be determined. It is still on the records and forms part of the pleadings in this action. In the circumstances I hold that the case file is admissible. 20

Witness continues - Case file tendered - marked "B" - Ex. B contains the original judgment - I am also acting as Registrar of the Court of Appeal. I am custodian of Appeal Court records. I have in my possession the Appeal Court records relating to Ex. B - I now produce them - tendered - marked "C" I have the judgment and I produce it - tendered - McCormack objects - Res inter alios acta - Certificate should be tendered. 30

Luke - Judgment admissible on the grounds that there is no authority that judgment of matter in Supreme Court or any Court is inadmissible in evidence - except on ground of irrelevance. 40

Court - Objection upheld.

In the
Supreme Court

Plaintiff's
Evidence

No.12

Omrie
Michael
Golley

Examination
(continued)

Cross-
Examination

10 Witness continues - The appeal was disposed of on 9.3.62 - The appeal was dismissed - No record of any further appeal to Privy Council - There is in the file an application for leave to appeal to the Privy Council dated 5.4.62 - Leave refused on 6.4.62 - I now say that the certificate of the result of the Appeal forms part of Ex. B - Certificate dated 9.3.62.

Xcd. by McCormack - I see the Order dated 5.4.62 refusing leave to appeal - Order of Sierra Leone Court of Appeal - Leave to appeal was granted - The Order is part of Ex. C - Order - marked "C1" - the intended Appellants gave a Bond in accordance with the Order Ex.C1 - The Bond is also part of Ex. C. - Ex. C.2.

20 McCormack - I ask leave to reserve further cross-examination to enable notice to produce certain documents.

Court - Leave granted.

NO.13.

EVIDENCE OF ZENOBIA COMFORT O'REILLY

No. 13

Zenobia
Comfort
O'Reilly

Examination

4 P.W. S.O.B.S. in English Ex. by Luke -

30 Zenobia Comfort O'Reilly - 57, Wellington Street, Freetown, Civil Servant attached to the Administrator and Registrar-General's Office - I am Acting Registration Officer Registrar-General's Office - I have in my custody deeds of mortgages, voluntary conveyances etc. - I have in my possession deed of mortgage registered in Vol. 14 Mortgages O page 205 - James Beresford Sawyerr to Jacob Williamson Sawyerr - tendered -

McCormack objects - Provisions of section 18 of Cap. 255 Registration of Instruments Act not complied with.

Luke - Notice not necessary.

40 Adjourned to 20.12.65

(Sgd) C.O.E.Cole, Ag.C.J.
14.12.65

In the Supreme Court

NO. 14
NOTICE TO PRODUCE

No. 14

C.C.176/64

1964

S. No. 37

Notice to Produce

IN THE SUPREME COURT OF SIERRA LEONE
(Civil Jurisdiction)

15th December 1965

BETWEEN: JOSEPH ALLEN SMITH - Plaintiff

- and -

FATOLA C. WALKER
TAIWO V. EDWARDS

- Defendants 10

TAKE NOTICE that you are required to produce and show to the Court at the trial of the above action on MONDAY the 20th day of December, 1965 at 9 a.m. the Register of Conveyance VOLUME 44 page 141 containing a Record of the under-mentioned document.

viz:- INDENTURE of Conveyance dated the 6th day of July, 1887 made between WILLIAM SMITH of the one part and JAMES BERESFORD SAWYERR of the other part in respect of certain lands at Fourah Bay Road, Freetown. 20

Dated the 15th day of December, 1965.

(Sgd) E.J.McCormack,
Solicitor for the Defendants.

The Deputy Registrar-General

The Registration Officer (or his Representative) Registrar-General's Office,
Roxy Building, Walpole Street, Freetown. 30

NO. 15.
EVIDENCE OF OMRIE MICHAEL GOLLEY (Continued)

In the
 Supreme Court

Monday 20th Before the Hon. Mr. Justice
 December, 1965 C.O.E. Cole Ag. C.J.

No. 15

Same Counsel as before.

Omríe Michael
 Golley

Court informed that the witness 4 P.W. Zenobia
 Comfort O'Reilly is away from Sierra Leone.

Cross-
 Examination
 (continued)

10 3 P.W. still on oath - Xxd by McCormack - I was
 served with notice to produce certain documents -
 I have the documents here - I produce letter
 dated 19.5.62 from McCormack to Master and
 Registrar - tendered marked D. I also produce
 letter dated 27.8.62 from McCormack to Master
 and Registrar in respect of the records of the
 appeal - Ex. E. I also produce letter dated 15.1.63
 from McCormack to Master and Registrar in
 respect of the same matter - tendered marked "F".

20 I also produce letter dated 3.5.63 from you
 to the Master and Registrar in respect of the
 same matter - tendered - marked Ex.G.

I have no evidence in the files to show
 that the records have been supplied or trans-
 mitted to the U.K.

Re-Xd. by Luke - I produce reply by me to
 McCormack dated 9.5.63 - tendered - marked "H".

Re-
 Examination

30 5 P.W. SO.B.S. in English Xd. by Luke - Isaac
 Palmerstone Carlton Danner - Civil Servant
 attached to the Registration Branch of the
 Administrator General's Office - I represent
 the Registrar-General - I see Deed of Mortgage
 dated 14.5.1895 - registered at page 205 of
 Vol. 14 - Mortgages tendered marked J. I see
 this document now shown to me to be the
 certified copy of that Deed of Mortgage -
 tendered - marked J1 - I see at page 358 of
 Vol. 10 Register of Wills the Original Will of
 Jacob Williamson Sawyerr - tendered - marked K -

In the
Supreme Court

No. 15.

Omrie Michael
Golley

Re-
Examination
(continued)

I produce a certified copy - marked K1. I see at page 106 of Vol. 130 Register of Conveyances Deed of Conveyance made between Ransolina Patience Cromanty to Joseph Christopher Metzger tendered -

Note -

McCormack objects -

Conveyance not pleaded - plaintiff nor defendants are parties to this Deed - Irrelevant to the issue. 10

Luke - Evidence unchallenged - Evidence relevant - Defendants are successors in title of estate of Ransolina Patience Cromanty - This Conveyance is made by Patience Ransolina Cromanty - Deed relates to the same property - 98, Fourah Bay Road - she purported to have acted under the Will Ex.K.

McCormack - Where a party seeks to rely on the document it must be pleaded - Deed sought to be put in has nothing to do with 98 Fourah Bay Road. 20

Court - I will allow the document subject to it being shown to be relevant - If irrelevant I shall discard it at the proper time.

Witness continues - Deed marked "L". I also produce a certified true copy - tendered - marked L1. I see at page 15 of Vol. 39 Register of Voluntary Conveyances Deed dated 6.10.53 from Ransolina Patience Cromanty to Walker and Edwards - tendered - marked "E" - I produce certified true copy - tendered marked M.1. 30

Cross-
Examination

Xxd. by McCormack - I see at page 141 of Vol.44 Register of Conveyances a deed of Conveyance dated 6.7.1887 between William Smith and James Beresford Sawyerr - tendered - marked N. I also produce certified true copy - tendered - marked N1.

Case for the Plaintiff

Note - Exs. J. K. L. M. & N. released.

Adjourned to 22.12.65

(sgd) C.O.E.Cole, Ag. C.J. 20.12.65.

NO.16.

EVIDENCE OF FATULA CHRISTIANA

WALKER

Thursday 30th
December, 1965

Before the Honourable
Mr. Justice C.O.E. Cole.
Ag.C.J.

In the
Supreme Court

Defendants'
Evidence

No.16.

Fatula
Christiana
Walker

Examination

10 Same representation as before.
Mr. McCormack for Defendants calls

1st Defendant S.O.B.S. in English Xd. by Mc
Cormack - Fatula Christina Walker - 81C Kissy
Road, Freetown - Married Woman - Also a Trader -
Know plaintiff - Knew the late Mrs. Ransolina
Cromanty - my maternal grand aunt - I don't
know the late Jacob Williamson Sawyer of Ghana -
I used to hear of him - My mother was Georgiana
20 Lucretia Rose - Jacob Williamson Sawyerr was
father of my mother - Mother died in April,
1963 - I lived with my grand-aunt Ransolina
Cromanty since I was born up to the time of my
marriage on the 13.8.6 - I lived with grand-
aunt at No. 14 Crook Street, Freetown - Grand-
aunt Mrs. Cromanty stood in loco parentis to
me - she looked after me and did everything for
me - My sister Mrs. Taiwo Edwards 2nd Defendant
30 was also in the same position with my grand
aunt - I know the house known as No. 98 Fourah Bay
Road, Freetown - 2nd Defendant and I now owned
that house - Grand Aunt gave us the house under
a deed of Gift - Ex. M1 is copy of the Deed of
Gift in question.

Q. How came your grand-aunt to make that deed
to you and Mrs. Edwards?

Mr. Luke objects -

40 Grounds - Reasons or what transpired before
making of the Deed of Gift inadmissible once
deed has been made and executed.

McCormack - I withdraw the question.

In the
Supreme Court

Defendants'
Evidence

No.16

Fatula
Christiana
Walker

Examination
(continued)

Witness continues Xd. by McCormack - One James Beresford Sawyerr was owner of No. 98 Fourah Bay Road before Mrs. Cromanty gave it to us - James Beresford Sawyerr is now dead - I don't know when he died - Tablet in St. Philips Church stated that he died in 1909. James Beresford Sawyerr and Mrs. Cromanty were brother and sister - I did not know the late James Beresford Sawyerr - Mrs. Cromanty was looking after 98 Fourah Bay Road - I don't know whether Mrs. Cromanty lived at No. 98 Fourah Bay Road - 98 Fourah Bay Road was under rentage - I used to go and collect rents from these premises - I was sent by my grand-aunt - No. 98 Fourah Bay Road was being used as a Vicarage for St. Philips Church - St. Philips Church was tenant - They have been tenants for over 30 years now - They are still tenants - Mrs. Cromanty to my knowledge never shared the rents from these premises with anyone - Mrs. Cromanty herself paid the rates for these premises up to her death - Ex.M1 is dated 1953. After 1953 Mrs. Cromanty collected rents and shared them between us - That continued up to her death in 1957 - I do not now receive the rents - My late uncle a Mr. Boizy Sawyerr who was Pastor's Warden of St. Philips Church seized the rents - Late uncle died in 1964 - 2nd Defendant and I complained to the Church Committee - 2nd Defendant and I have received no rents since death of my grand-aunt Mrs. Cromanty. I am not happy about that - No action taken against the Church Committee - The estate matter was in Court.

Cross-
Examination

Xd. by Luke - The Plaintiff and others have brought the estate of Mrs. Cromanty several times to Court - I deny that St. Philips Church paid rates during life time of Mrs. Cromanty - To my knowledge St. Philips Church have never paid rates for those premises 98 Fourah Bay Road - I am not paying the rates now - I think it is the Church who are paying the rates now - I deny your suggestion that Mrs. Cromanty never shared any rents between 2nd Defendant and I.

Re-Xd. by McCormack - None.

NO. 17
EVIDENCE OF TAIWO VICTORIA EDWARDS

2nd Defendant S.O.B. states in English Xd. by McCormack. R

In the
Supreme Court

Defendants'
Evidence

No.17

10 Taiwo Victoria Edwards - 7, Mata Street
Freetown - Married Woman - Trade - Know
Plaintiff - Knew the late Mrs. Patience
Ransolina Cromanty - My maternal grand-aunt - I
am of the same mother as 1st Defendant - 1st
Defendant is my elder sister - I claim ownership
of No. 98 Fourah Bay Road - I am co-owner with
1st Defendant under Ex. M.1.

Taiwo Victoria
Edwards

Examination

No Xction by Luke -

NO.18

No. 18

EVIDENCE OF IDRIS SHURAIBU DEEN-GABISI

Idris Shuraibu
Deen-Gabisi

20 1 D.W. S.O.B.S. in English Xd. by McCormack -
Idris Shuraibu Deen-Gabisi - 47 Kissy Road,
Freetown - Commercial Artist and Photographer -
About April this year I took photograph of a
tablet at St.Philips Church Freetown - I did
so on the instructions of 2nd Defendant - It was
a memorial tablet - I cannot now remember the
name of the person in question - I took one
exposure - I developed the film - This is the
negative - tendered - marked - Ex.O.

Examination

30 Note - Mr. Luke objects on grounds that the
negative is irrelevant - If not irrelevant it
is inadmissible to prove what it purports to
prove.

Court calls attention that objection is
belated.

Out of Ex.O I made this print - This is the
enlarged copy of the print - tendered -

Mr. Luke objects - Same as regards Ex. O.

In the
Supreme Court

Defendants'
Evidence

No. 18

Idris Shuraibu
Deen-Gabisi

Examination
(continued)

McCormack - Refers to Phipson on Evidence 10th Edn. para. 869 Statements admissible under Evidence Act 1938 which is substantially the same as our Evidence (Documentary) Act Cap.26. Refers to section 3(2) of the Evidence (Documentary) Act - Print admissible.

Luke - McCormack has not replied to the objection.

Court - I hold that the necessary premises for the document have not been laid - I rule that it is in the circumstance inadmissible.

No Xtion by Luke.

10

No.19

Alexander
Eugene Bankole
Oldfield

Examination

NO.19

EVIDENCE OF ALEXANDER EUGENE BANKOLE
OLDFIELD

2 D.W. S.O.B.S. in English Xd. by McCormack - Alexander Eugene Bankole Oldfield 12 Alfred Street, Freetown - Retired Civil Servant - I represent St. Philips Church Committee - I am People's Warden of that Church - Know premises No. 98 Fourah Bay Road - tenanted by St. Philips Church - That Church have been tenants from 1910 to 1938 - then from 1945 to date - The late Mrs. Ransolina Cromanty was our landlady in 1910 to 1938 - Mrs. Cromanty was our Landlady from 1945 up to the time of her death in 1957 - After death of Mrs. Cromanty the rents have been paid into Barclays Bank St. Philips Church Parsonage Rent Fund Account. That was a decision of the Church Committee The decision was taken because there was no reliable person to whom rent should paid - A Mrs. Rose applied but payment was not made to her - The People's Warden paid rates and carried out repairs - Rates paid out of the Fund - Mrs. Cromanty paid the rates up to her death.

20

30

40

No Xtion by Luke.

In the
Supreme Court

Note - both sides agree that for the period 1909 up to death of Mrs. Cromanty in 1957 the rates in respect of No. 98 Fourah Bay Road Freetown were paid by Mrs. Ransolina Cromanty. Both sides also agree that since 1913 the name of Mrs. Ransolina Cromanty had appeared in the Rates Register as owner of the premises No. 98 Fourah Bay Road Freetown.

Defendants'
Evidence

No.19

10

Alexander
Eugene Bankole
Oldfield

Case for the Defence.

By consent adjourned to Monday 3.1.66 for addresses.

Examination
(continued)

(sgd) C.O.E. Cole, Ag.C.J.
30.12.65

NO.20

No.20

PROCEEDINGS

Proceedings

20 Monday 3rd January Before the Hon.Mr.
1966. Justice C.O.E.Cole,
Ag.C.J.
Same representation as before.

3rd January
1966

30 McCormack addresses Court - Action is to set aside Deed of Gift dated 6.10.53 made by Ransolina Cromanty to the defendants. Refers to opening remarks of Plaintiff's Counsel that issues are res judicata - Not so - Submits issues quite different - parties quite different - defendants in this case were never parties in those actions. Refers to Smith's leading Cases Vol.2 page 644. Duchess of Kingston's case at p.644 - Pleadings filed in this action and trial has been on the pleadings. Refers to Plaintiff's Statement of Claim - Writ is indorsed for setting aside Deed of Gift in question - Reads Statement of Claim.

In the
Supreme Court

No. 20

Proceedings

3rd January
1966
(continued)

Submits that evidence of plaintiff is that the late Jacob Williamson Sawyerr had mortgage interest in 98 Fourah Bay Road - Submits freehold cannot include mortgage interest. Refers to Ex. J1 - Title of Jacob Williamson - mortgage deed. Refers to para. 3 of Statement of Claim - stresses on words "I devise and bequeath my freehold lands" etc. - Submits that freehold would not pass mortgage interest.

10

Refers to

Theobald on Wills 12th Edn. para.650 page 204 "Meaning of certain words" - Mortgages of land". Also page 655 - Freehold land - Davies of Freehold prima facie excludes leaseholds - "My freehold house" did not pass mortgagee interest - submits Testator in present case did not own freehold - had only a mortgage interest - he devised the freehold land - submits that passes only the mortgage interest.

20

Refers to paras 6 and 7 of Statement of Claim - Jane Alice Smith died in 1957 - Deed of Gift was made in 1953 - No evidence that any action was taken by Jane Alice Smith against anyone to recover her share of rents if not - share of rents not ascertained or authorised.

Refers to para.8 of the Statement of Claim - Submits allegation in this paragraph has not been proved - Refers to Para.12 of the Statement of Claim - Submits plaintiff has sued alone - not in representative capacity - submits that all parties interested are not before the Court - Claim should be dismissed or Court should grant whatever interest that claimant (if any) is entitled - Submits evidence does not show that the Plaintiff can claim that the Deed of Gift be set aside - submits that it has not been proved that No. 98 Fourah Bay Road was part of the estate of Plaintiff's grandfather at the time of his death - No case has been made out by the Plaintiff for the setting aside of the Deed of Gift.

30

40

10 Refers to Defence and evidence in support -
Refers to Ex.M1 - Defendants are owners of
the house in question - Traced title to
James Beresford Sawyerr deceased. Refers to
Ex. N.1 - Ransolina Patience Cromanty since
1910 has been paying rates and taxes and
enjoying the rents and profits freely and
undisturbed - Refers to Evidence of 2 D.W. -
the undisturbed possession from 1910 - 1953 -
40 years possession - Defendants rely on the
statutes of Limitation - submits James
Beresford Sawyerr it is agreed died in 1909 -
Plaintiff himself said so - Refers to Ex.J1 -
root of title of Plaintiff Ex.J1 mortgage
Deed dated 16.5.1895 - Refers to page 7 of
Ex.J.1 - Jacob Williams Sawyerr acknowledged
Deed at Accra Ghana on 22.4.1895 - Delivered
for registration at Freetown on 6.8.1895 -
Submits evidence of no foreclosure of
20 mortgage - Refers to evidence of Plaintiff -
Ex. J1 was executed in 1895 - Mortgagor
died in 1909 - 14 years between date of
mortgage and death of mortgagor - Submits
Mortgagor was always in possession until
death - Mortgagor has always been at Accra -
Never came back to Sierra Leone - Submits
that even before death of mortgagor the
mortgage debt had become statute barred.

30 Refers to S.18(1) of the Limitations Act No.
51 of 1961 - in force on 16.1.61 - Action
brought in 1964 - Act a reproduction of the
English Statute of Limitation - 12 years -
On the fact of Ex.J1 time money debt was to
have been paid on 8.1.1897 - Mortgagee's
Will was dated 1908 - Died in 1916 - At
date of his Will he ought to have known of
the existence of Ex.J1 - Will in question
is Ex. K1 - Nowhere in Ex. K1 did testator
mention the mortgage debt - Refers to para.
40 2 of Will - 6th Paragraph - Mortgagor is
a beneficiary - No mention of the mortgage
in Ex. K1 - submits Will speaks from date of
death of Testator - Testator died in 1916 -
Mortgage interest in 98 Fourah Bay Road had

In the
Supreme Court

No. 20

Proceedings

3rd January
1966
(continued)

long passed - Testator could not be said to be seised and die possessed of 98 Fourah Bay Road - Plaintiff put in evidence judgment of certain actions brought by other parties - It is judgment drawn up and filed - Refers to record of Court of Appeal - page 51 - judgment drawn up and filed - reads it - 98 Fourah Bay Road never mentioned specifically - Refers to Ex. L - Question of admissibility reserved for further consideration - Parties in this action not parties to the deed - Ex.L. is purely hearsay - Only legal evidence should be relied on - Submits that in construction of a Will devise of freehold does not pass the mortgage interest. Refers to Bowen v. Barlow L.R. 1870-1 11 Equity page 454.

10

Mr. Luke addresses Court - Court is entitled to look at reasons for Judgment in determining issue of res judicata - Refers to Smith's leading cases page 644 - Submits that passage is entirely against defendants - Submits that defendants not strangers to Ransolina Patience Cromanty - Defendants are persons claiming under Ransolina Patience Cromanty - Supreme Court had decided certain issues against Cromanty - Binding on persons claiming under her - Refers to Ex.J1 - Ex facie a conveyance of the fee simple absolute in possession to Jacob Williamson Sawyerr - subject to James Beresford Sawyerr's equity of redemption - Until right of redemption is exercised the legal estate remains in the mortgagee - Equity of redemption can be lost not only by express grant or by lapse of time. 14 years in the first place and now 70 years - Equity of redemption lost - Submits that case here is not one of mortgage of a leasehold - Cases cited by McCormack are mortgage of leaseholds not of freehold. If a man has a right of action - he is entitled to exercise that right - Plaintiff is entitled to have brought the action - Case here turns upon Deed of Gift Statute of Limitation not applicable - Refers

20

30

40

to Bowen v. Barlow cited by McCormack - Mortgage there was one of a leasehold interest.

In the
Supreme Court

No. 20

Proceedings

3rd January
1966

(continued)

- Submits (1) that James Beresford Sawyerr by a deed of Conveyance dated 6.7.1887 Ex.N purchased fee simple of No. 98 Fourah Bay Road from one William Smith.
- 10 (2) James Beresford Sawyerr conveyed fee simple in those premises to Jacob Williamson Sawyerr by a deed of Mortgage dated 16.5.1895 Ex. J.
- 20 (3) No evidence whatsoever that James Beresford Sawyerr or his successors in title ever redeemed or obtained a reconveyance of 98 Fourah Bay Road - or any of the two other properties mortgaged by Ex.j.
- 30 (4) Jacob Williamson Sawyerr died on 15.8.1915 at Accra in the then Gold Coast seised of 98 Fourah Bay Road and by his last Will and Testament dated 30.5.1908 Ex.K devised and bequeathed 98 Fourah Bay Road and other lands and buildings at Fourah Bay Road Malta Street and Lucas Street unto his brothers Richard William James Beresford - his sister Patience Cromanty and daughters Georgiana Lucretia and Alice as Co-tenants in equal shares.
- 40 (5) By Ex.K Will - Jacob Williamson Sawyerr appointed Ransolina Patience Cromanty one of three executors - the other two of whom predeceased the testator -

In the
Supreme Court

No. 20

Proceedings

3rd January
1966
(continued)

leaving Ransolina Patience Cromanty
the sole surviving executrix -

- (6) On 10.10.1916 two months after death of testator - probate of Ex.K was taken out by Ransolina Cromanty at Accra - and as regards property of Jacob Williamson Sawyerr in the then Gold Coast Mrs. Cromanty went into possession legally - Properties in the Gold Coast legally vested in her. 10
- (7) On 11.7.1918 - Ex.K was registered in Sierra Leone but not resealed here - nor was a local grant of administration or probate obtained - No probate or Letters of Administration having been obtained in Sierra Leone when Ransolina Patience Cromanty went into possession she did not do so as a legally executrix authorised by law - Submits she did so as an executor de bon tort. 20
- (8) On 16.11.1932 Ransolina Patience Cromanty sold part of estate of Jacob Williamson Sawyerr to Joseph Christopher Metzger - Ex. L1 refers - Portion sold - by Ex. L is right next door to 98 Fourah Bay Road - 98 Fourah Bay Road - Portion left after what is sold in Ex.L. - Reads Ex.L - Ransolina Cromanty sold in capacity as executor Refers to plan attached to Ex.L. 30
- (9) On 6.10.1953 by Ex.M. Ransolina Patience Cromanty purported to convey by Deed of Gift 98 Fourah Bay Road to the defendants - Refers to Recitals in Ex. M. - she conveyed as fee simple owner.
- (10) On 18.2.58 in action C.C.85B/58 1958 S. No. 10 Plaintiff herein and others sued executors of estate of Ransolina Cromanty for declaration that they were beneficially entitled to premises at Fourah Bay Road, 40

Malta Street devised by the Will of Jacob Williamson Sawyerr - Plaintiff and others succeeded in that action. She took possession of properties as executrix and trustees but dealt with 98 Fourah Bay Road as owner - Reads judgment of Supreme Court.

In the
Supreme Court

No. 20

Proceedings

3rd January
1966
(continued)

- 10 (11) Personal representatives Executors of Patience Ransolina Cromanty appealed against the decision above. The appeal was dismissed. Reads judgment of Court of Appeal - Time does not run against as executor de bon tort. Ransolina Cromanty acted in breach of trust in conveying No. 98 Fourah Bay Road - Name non habat - Deed of Gift ineffective and invalid - Interest of Ransolina Cromanty in 98 Fourah Bay Road is one fifth undivided share - In any case the other co-beneficiaries have not joined in the deed of Gift - Ex.M. Defence filed untenable. As regards the plea of Statute of Limitation - relies on judgment of Court of Appeal in evidence.
- 20

C.A.V. Notices will be sent out when judgment is ready.

(sgd) C.O.E.Cole, Ag.C.J.
3.1.66.

30 Friday 7th Before the Hon.Mr.Justice
January, 1966. C.O.E.Cole, Ag. C.J.

7th January
1966

N.A.P. Buck deputising for Mr. D.E.Luke for the Plaintiff.

McCormack for the Defendants.

Written judgment delivered.

Order - Deed of Gift Ex. M set aside - No.98 Fourah Bay Road to be dealt with in

In the Supreme Court

No. 20

Proceedings

7th January 1966 (continued)

accordance with the trust set out in the Will of Jacob Williamson Sawyerr (deceased) part of Ex.K. Defendants to pay the costs of this action - such costs to be taxed.

(sgd) C.O.E.Cole Ag.C.J. 7.1.66.

No. 21

Judgment

7th January 1966

NO.21.

10

JUDGMENT

C.C.No.176/64 1964 S. No. 37

IN THE SUPREME COURT OF SIERRA LEONE

BETWEEN: JOSEPH ALLEN SMITH Plaintiff

- and -

FATULA CHRISTIANA WALKER TAIWO VICTORIA EDWARDS Defendants

JUDGMENT DELIVERED ON THE 7TH DAY OF JANUARY, 1966

20

Desmond E.F. Luke, Esq. for Plaintiff. E.J. McCormack, Esq. for the Defendants.

Cole, Ag. C.J.: - In this action the Plaintiff claims that the Deed of Gift dated the 6th day of October, 1953, and made between Ransolina Patience Cromanty now deceased, late of 14, Crook Street, Freetown and Executrix of the Will of Jacob Williamson Sawyerr And the Defendants registered at page 15 in Volume 39 of the Books of Voluntary Conveyances be set aside with all proper consequential directions, costs and such further or other relief as is just.

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The Plaintiff's case is this. On the

6th day of October, 1953 Ransolina Patience Cromanty (now deceased) conveyed to the Defendants in fee simple under a registered deed of gift Exhibit 'E' bearing that date premises commonly known as No. 98 Fourah Bay Road, Freetown.

In the
Supreme Court

No. 21.

Judgment

7th January
1966
(continued)

10 "bounded on the North by Fourah Bay Road 53' (fifty three feet) on the South by property now or formerly in the possession or occupation of Jos Metzger 67' (sixty-seven feet) on the East by property now or formerly in the possession or occupation of Austin Bowen deceased 78' (seventy-eight feet) and on the West by Mercer Street 66' (sixty-six feet)".

20 I shall hereafter in this judgment refer to those premises as "No. 98 Fourah Bay Road". In the recital portion of Exhibit M Ransolina Patience Cromanty's title to No. 98 Fourah Bay Road is described in the following words:-

"Whereas the Donor is seised of and otherwise well and sufficiently entitled to the property hereby conveyed for an estate in fee simple in possession free from incumbrances having been in sole continuous and undisturbed possession of the said property for a period of over 36 years".

30 It might perhaps be convenient at this stage to trace the history of this property No. 98 Fourah Bay Road as far as the evidence in this case goes. No. 98 Fourah Bay Road originally formed part of certain premises at Fourah Bay Road Freetown which was acquired by purchase by James Beresford Sawyerr from one William Smith under registered Deed of Conveyance dated the 6th July, 1887. This Deed of Conveyance is Exhibit N.

40 On the 16th May, 1895, James Beresford Sawyerr by Deed of Mortgage dated the 16th May, 1895, Exhibit J, mortgage the whole of

In the
Supreme Court

No. 21

Judgment

7th January
1966
(continued)

the premises contained in Exhibit N which included No. 98 Fourah Bay Road to Jacob Williamson Sawyerr, a Merchant then residing at Accra in the then Gold Coast now Ghana. The mortgage was redeemable on the 8th February, 1897. This mortgage was registered as No. 259/201510/65 at page 205 of Volume 14 of the Record Book of Mortgages at the Registrar-General's Office in Freetown, Sierra Leone. It should be noted that on the date of the mortgage the mortgagor James Beresford Sawyerr was residing in Sierra Leone and according to paragraph 4 of the Defence James Beresford Sawyerr died in Freetown in the year 1909. There is no evidence that James Beresford Sawyerr or any one on his behalf redeemed the mortgage or obtained reconveyance of the mortgage premises. In the circumstances I find that the mortgage in question was never redeemed. That being the case I also find that the right of redemption on the part of James Beresford Sawyerr of the premises mortgaged has been lost by lapse of time.

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Jacob Williamson Sawyerr died on the 15th August, 1915, at Accra Gold Coast now Ghana leaving his last Will and Testament dated the 30th day of May, 1908. I am satisfied on the evidence that on the date of his death the mortgaged premises at Fourah Bay Road belonged to and formed part of the estate of Jacob Williamson Sawyerr. In that Will part of Exhibit K, Jacob Williamson Sawyerr devised his real properties in Sierra Leone in these words:-

30

"I devise and bequeath my freehold lands with the buildings therein situate at Fourah Bay Road, Malta Street, Lucas Street and Farm land at Fourah Bay Road all in Freetown Sierra Leone to my brothers Richard William, James Beresford, my Sister Ransolina Patience Cromanty and

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to my daughters Georgiana Lucretia and Jane Alice all in equal shares and it is my express desire that these lands be not sold but that they must descend from children to children".

In the
Supreme Court

No.21

Judgment

7th January
1966
(continued)

10

On the 14th October, 1916, probate of the said Will dated 30th May, 1908 of Jacob Williamson Sawyerr was granted by the Supreme Court of the then Gold Coast Colony now Ghana to Ransolina Patience Cromanty according to the evidence, the only surviving of the three Executors named in the said Will. Exhibit K refers. Exhibit K was not resealed in Sierra Leone as it should have been done under Order-in-Council applying the provisions of the English Statute The Colonial Probates Act 1892 to both the Gold Coast and Sierra Leone. The effect of such resealing would have been that the probate Exhibit K would have been of like force and effect and would have had the same operation in Sierra Leone as if Exhibit K had been granted by the Supreme Court of Sierra Leone.

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According to the evidence only the Will, part of Exhibit K, was registered in Sierra Leone on the 11th July, 1918. The result is that though No. 98, Fourah Bay Road formed part of the estate of Jacob Williamson Sawyerr at the time of his death it did not pass under the Probate Exhibit K. No probate or Letters of Administration with the Will annexed was taken in Sierra Leone.

40

There is no evidence as to when Ransolina Patience Cromanty came to Sierra Leone but the evidence is that as far back as 1910 only six years before she took probate she had been dealing with No. 98 Fourah Bay Road renting it and collecting the rents and profits. After she took out probate and with full knowledge of the contents of the Will she continued to collect the rents of No. 98 Fourah Bay Road. She also in 1932 sold part of premises adjacent

In the
Supreme Court

No. 21

Judgment

7th January
1966
(continued)

to No. 98 Fourah Bay Road, Freetown, which formed part of the estate of Jacob Williamson Sawyerr, deceased. She collected the rents and profits, paid the rates and taxes for No. 98 Fourah Bay Road up to the 6th October, 1953 when she conveyed the property to the Defendants by Exhibit M and in spite of that Conveyance she continued according to the evidence to collect the rents of No. 98 Fourah Bay Road up to her death in 1957. This is the title on which she relies when she conveyed No. 98, Fourah Bay Road to the Defendants by virtue of Exhibit M.

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It would appear from the Defence and the evidence led that the Defendants rely on these facts as their title to No. 98 Fourah Bay Road and they therefore plead the Limitation Act.

Two questions therefore arise, namely,

- (i) What was the effect in law of the dealings and disposal by Ransolina Patience Cromanty of the property, No. 98 Fourah Bay Road? 20
- (ii) Does the Statute of Limitations apply to such a case?

With regard to the first question I am satisfied on the evidence as a whole that her dealings with the estate of Jacob Williamson Sawyerr (deceased) in Sierra Leone of which No. 98 Fourah Bay Road forms a part constitute her in law an executor de son tort of that part of the estate of Jacob Williamson Sawyerr in Sierra Leone. With full knowledge of the devises contained in the Will of Jacob Williamson Sawyerr as regards the properties in Sierra Leone including No. 98, Fourah Bay Road she entered into possession of No. 98 Fourah Bay Road and remained in possession until her death. In my view Ransolina Patience Cromanty must at the time she made Exhibit M be regarded as an executor de son tort with notice of the trust relating to No. 98 Fourah Bay Road. I find that in disposing of

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10 No. 98 Fourah Bay Road she did so in her capacity as constructive trustees of the estate of Jacob Williamson Sawyerr (deceased) as regards his estate in Sierra Leone and that her disposal in the circumstances was a fraudulent breach of trust. It is true that she is a beneficiary as regards that property but from the nature of the devise her interest is one and indivisible with those of the other beneficiaries. In any case it is settled law that the assignee of an equity is bound by all the equities affecting it.

In the
Supreme Court

No. 21

Judgment

7th January
1966
(continued)

In view of my findings on the first question I hold that in law the Limitation Act does not apply. This disposes of the second question. In these circumstances it is my view that the deed of gift Exhibit M cannot stand.

20 The question now arises whether I can properly set aside the deed of gift Exhibit M. Mr. McCormack, Learned Counsel for the Defendants, in his final address submitted, inter alia, that since the Plaintiff has sued alone and not in a representative capacity the action should be dismissed. The evidence is that Plaintiff is one of the lawful sons of Jane Alice Smith (nee Sawyerr). Plaintiff deposed as follows on this point -

30 "My mother died on the 24th December, 1957, testate, leaving a Will dated 11th December, 1957 probated by the Executors named therein Jacob Williamson Sawyerr (Jnr.) and my brother Ernest Onesimus Smith. No. 98, Fourah Bay Road was dealt with in my mother's will. Mother devised her interest in No. 98, Fourah Bay Road to all her male children. I am one. Not specifically named. I am a
40 lawful child".

It is not disputed that Jane Alice Smith is one and the same person as Jane Alice referred

In the
Supreme Court

No.21

Judgment

7th January

1966

(continued)

to in the paragraph of the Will of Jacob Williamson Sawyerr (deceased) already quoted above and I so find. She was a beneficiary under that will at least as regards No. 98 Fourah Bay Road the subject matter of this action. Under her will the plaintiff is one of those also beneficially interested in No. 98, Fourah Bay Road. In my view, where a trustee has committed a breach of trust fraudulent or otherwise any beneficiary can bring an action to question the validity of the acts of such a trustee. As I have already found Ransolina Patience Cromanty was not only an executor de son tort of the estate of Jacob Williamson Sawyerr as regards that part of his estate in Sierra Leone but she was also a trustee who in the manner in which she disposed of No. 98, Fourah Bay Road committed a fraudulent breach of her trust. In those circumstances I think the Plaintiff has properly brought this action. 10 20

Taking all the circumstances of this case into consideration I would grant the Plaintiff's claim. I order that the deed of gift Exhibit M be set aside and I also order that the property in question No. 98, Fourah Bay Road be dealt with in the manner laid down in the Will of the said Jacob Williamson Sawyerr (deceased).

The Plaintiff will have the costs of this action such costs to be taxed. 30

(sgd) C.O.E.Cole,
Acting Chief Justice.

NO.22
ORDER

In the
Supreme Court

C.C.No.176/64

1964

S.No.37

No. 22

IN THE SUPREME COURT OF SIERRA LEONE

Order

BETWEEN: JOSEPH ALLEN SMITH PLAINTIFF

7th January
1966

AND

FATULA CHRISTIANA WALKER
TAIWO VICTORIA EDWARDS DEFENDANTS

10

BEFORE THE HON. ACTING CHIEF JUSTICE
7TH DAY OF JANUARY, 1966

THIS ACTION coming up for hearing on the 19th and 27th days of October, 1965, the 8th day of November, 1965, 1st, 14th, 20th, and 30th days of December, 1965, and the 3rd day of January, 1966 in the presence of the Plaintiff and the Defendants and their respective Counsel UPON READING the pleadings filed herein AND UPON HEARING the oral evidence of the witnesses called on both sides and the exhibits tendered by them in evidence and UPON HEARING what was argued by Counsel on both sides THIS COURT did adjourn this matter for judgment AND this matter standing on the paper this day for judgment THIS COURT did find for the Plaintiff and did grant the Plaintiff's Claim IT IS THIS DAY ADJUDGED AND ORDERED

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- (i) That the deed of gift Exhibit M dated the 6th day of October, 1953 and made between Ransolina Patience Cromanty now deceased late of 14, Crook Street, Freetown and Executrix of the Will of Jacob Williamson Sawyerr of the one part and the defendants Fatula Christiana Walker and Taiwo Victoria Edwards of the other part registered at Page 15 in Volume 39 of the Books of Voluntary conveyances in the office of the Registrar-General Freetown be set aside.

In the
Supreme Court

No.22

Order

7th January
1966
(continued)

(ii) That the property in question 98, Fourah Bay Road be dealt with in the manner laid down in the Will of the said Jacob Williamson Sawyerr (deceased).

(iii) That the Plaintiff recover the costs of this action such costs to be taxed.

BY THE COURT

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(sgd) O. M. Golley,
Ag. MASTER AND REGISTRAR.

In the Court
of Appeal

NO.23

NOTICE AND GROUNDS OF APPEAL

IN THE SIERRA LEONA COURT OF APPEAL

Notice and
Grounds of
Appeal

NOTICE OF APPEAL

20

11th March
1966

BETWEEN: JOSEPH ALLEN SMITH
Plaintiff/Respondent
and

FATULA C. WALKER
TAIWO V. EDWARDS
Defendants/Appellants

TAKE NOTICE THAT THE Defendants being dissatisfied with the decision of the Supreme Court contained in the Judgment of Mr. Justice C.O.E.Cole, Ag.C.J., dated the 7th day of January, 1966 do hereby appeal to the Sierra Leone Court of Appeal upon the grounds set out in paragraph 3, and will at the hearing of the appeal seek the relief set out in paragraph 4.

30

And the Appellants further state that the names and addresses of the persons directly affected by the appeal are those set out in paragraph 5.

2. Part of the decision of the lower Court complained of:

In the Court of Appeal

The Whole

No. 23

3. GROUNDS OF APPEAL:-

Notice and Grounds of Appeal

11th March 1966 (continued)

10

1. The learned trial Judge was wrong in law and in fact by his finding that at the date of death of Jacob Williamson Sawyerr, the mortgaged premises No. 98, Fourah Bay Road belonged to him and passed under the devise in his Will.

2. The learned trial Judge misapplied the law of mortgages to the facts herein when he held that the right of redemption on the part of James Beresford Sawyerr (the mortgagor) of the premises mortgaged had been lost by lapse of time.

20

3. The learned trial Judge wrongly received in evidence the Deed of Conveyance, Exhibit "L".

4. The Judgment is unreasonable and cannot be supported having regard to the evidence.

4. Relief sought from the Sierra Leone Court of Appeal.

A reversal of the said decision.

5. Persons directly affected by the appeal:-

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<u>Name</u>	<u>Address</u>
Joseph Allen Smith	7, Lucas Street, Freetown.
Fatula C. Walker	81, Kissy Road, Freetown.
Taiwo V. Edwards	7, Malta Street, Freetown.

Dated this 11th day of March, 1966

(sgd) Fatula C. Walker
Taiwo V. Edwards
Appellants.

In the Court
of Appeal

NO.24

PROCEEDINGS.

No.24

IN THE COURT OF APPEAL FOR SIERRA LEONE
(Wednesday 25th May 1966)

Proceedings

25th May 1966

Coram:- Hon.Sir Samuel Bankole Jones -
President
Hon.Mr.Justice G.F.Dove-Edwin - J.A.
Hon.Mr.Justice J.B.Marcus-Jones - P.J. 10

Joseph Allen Smith - Respondent

and

Fatula C. Walker & Another Appellants.

Mr. E. J. McCormack for Appellants
Mr. Desmond Luke for Respondent.

McCormack - This is an appeal against judgment
of Cole J. See p.36 of Record. Grounds of
Appeal are at p.45.

Ground: Refers Judgment p.38. It is
necessary to go into history of the property 20
of 98 Fourah Bay Road. Judge held No. 98
Fourah Bay Road formed part of estate of the
testator, the mortgagee.

See Exh. J - Mortgage deed of 16.5.1895.
See p.67-74 of File containing Exhibits,
also see p.38 of Judgment - lines 5 - 6
Mortgagor was at all material times in
Freetown. Mortgagee was at all material
times in Ghana and died there.
See Exh. J1 p.73 and 74. Mortgage deed was 30
executed by Mortgagee at Accra. Mortgagor
died in Freetown. Deed executed on 16.5.95
and the Mortgagor was in possession i.e.
James Beresford Sawyerr until his death in
1909. The date for mortgage to be redeemable
was 8.2.97. p.67-74 - 82 of Exhibit Record.
As Mortgagor was in possession for 12 years
from 16.5.95 to 1909, Mortgage was statute

loaned. Equity of Redemption is barred after 12 years if Mortgagee is in possession or if he take step to redeem by sale.

In the Court
of Appeal

No. 24.

See (1) Wilkinson vs. Hall 132 E.R.506

Proceedings

25th May 1966
(continued)

10

This case establishes that where a Mortgage deed contains a date for the Mortgage to be redeemable and that deed is executed by mortgage; the effect is that there is a re- device of the premises to the Mortgagor and if Mortgagor remains in possession when Mortgage was redeemable time runs in his favour to bar the Mortgagee.

2. Carson's Real Property Statutes 2nd Ed.
p.174 Shoulder Note -

"When time begins to run against Mortgagee".

20

Time stated running against Mortgagee after 8.5.97. See Limitation Act No. 51 of 1961 - Sec. 18 and Sec. 13.

In this case Mortgagee was never in possession. The Mortgagor was in possession throughout. See also Sec. 16. Not only is title of Mortgagee barred but it is extinguished.

See Kibble v. Fairthorne 1895 1 Ch.219

Remedy against the person is barred.

Remedy against land is extinguished.

30

The finding of the Judge that at the date of death Mortgaged premises belonged to and formed part of Jacob Williamson Sawyerr's Estate is wrong.

Mortgagor died in 1909. When he died Rasolina took possession of property and became donor.

In the Court
of Appeal

No.24.

Proceedings

25th May 1966
(continued)

Ground 2 - I repeat my argument founded on Limitation Act in Ground 1. If the Mortgagor was in possession lapse of time will not bar him.

Parties to mortgage are brothers. It is not known whether Mortgagor has repaid the debt.

The testator did not dispose of No. 98 Fourah Bay Road. See p.38 Record. 10

There is no evidence that testator had other properties freehold at Fourah Bay Road.

See p.4-5 Record.

See (1) Sutton vs. Sutton L.R.22 Ch.D.511
(2) Sands vs. Thompson 22 Ch.D.614

Even if Mortgagee had paid debt to brother and there was no re-conveyance - and 13 years have lapsed, Mortgagees remedy is extinguished i.e. if Mortgagor remains in possession.

See p.39 Judgment - Statutory period of stay of Rasolina P. Cromanty. 20

Adjourned to 26.5.66.

26th May 1966

In the Court of Appeal for Sierra Leone
(Thursday 26th May 1966)

Coram: Hon Sir Samuel Bankole Jones -
President
Hon.Mr.Justice G.F.Dove-Edwin - J.A.
Hon.Mr.Justice J.B.Marcus-Jones - P.J.

Joseph Allen Smith - Respondent
and

Fatula C. Walker & Anor. - Appellants
Contd. from last page 30

Ground 3: Wrong. Receipt of Exh. C.

See page of Record of Exhibits. Exh.C.
is a deed of conveyance between Ransolina P.
Cromanty and Josephus Christopher Metzger.

In the Court
of Appeal

No. 24.

Refers p. 25 1.40 of Record.

Proceedings

Counsel for Plaintiff made use of Exhibit in
his address - p. 34 1.22 -

26th May 1966
(continued)

10 Judge refers to it, in his Judgment p.39 1.35
See p.40.

20 Ground 4:- Mortgage executed on 16.5.95.
Redeemable on 8.2.97. Time started to run
against the Mortgagee or "testator" as from
9.2.97 whilst Mortgagor was still in
possession. He was in possession up to
17.5.09. No evidence of repayment of
mortgage debt - 12 years Jacob Williamson
Sawyerr died in 1916 without taking action to
redeem the property.

Note: Desmond Luke concedes that Mortgagor
died on 17.5.09.

Desmond Luke: The Deed of Gift is to be
found at p.83 - 85 of Record of Exhibits Exh.M.
See p.83 1.21-1.27 where Donor states he title
for a period of over 36 years. This takes us
back to 1917 i.e. the year after Jacob
Williamson Sawyerr died.

30 Grounds 1 & 2: Where is evidence that the
Mortgagor J.B.Sawyerr was in possession of 98
Fourah Bay Road at the time of the mortgage and
in adverse possession two years after and
therefore in such adverse possession that time
ran in his favour.

Our case - page 321.35-36- of Record. My sub-
mission in Court below were quite right.

40 It had been found in previous case - Exh.
B that 98 Fourah Bay Road formed part of the
estate of Jacob Williamson Sawyerr and that

In the Court
of Appeal

No. 24.

Proceedings

26th May 1966
(continued)

Ransolina Cromanty was Executor de son tort in her dealings with this property.

Such findings should have persuasive influence on this Court.

Ground 3:- Exh. L was rightly received.

McCormack: The previous action in Supreme Court and Appeal Court was an action against the Executors of Ransolina P. Cromanty. It was for a declaration for beneficial interests of the plaintiffs in the devise under Will of testator Jacob Williamson Sawyerr. The Defendants in this case were never parties. The Executors which were the Defendants in this case were never seised of 98 Fourah Bay Road. 10

Claim in present case is to set aside deed of gift.

The evidence of long possession in favour of Ransolina Cromanty is that she had been in possession by receipt of rents since 1910 and she had been paying rates. S. p.28 evidence of Oldfield. 20

Curator is not an agent of the Crown. He is just an ordinary person against whom time runs - 12 years.

See Vol. 1. Cap. 45 - Sec. 9. date 1946

Mortgagor -

(1) In Estate of Thomas Josiah Pratt
2 S.L. Recorder Vol. 2 p. 9 -
In the Estate of C. Walter Jackson Vol.2
S.L. Recorder p.12. 30

Judgment reserved

In the Court of Appeal for Sierra Leone
(Friday 3rd June 1966)

In the Court
of Appeal

Coram: Hon.Sir Samuel Bankole Jones -
President
Hon.Mr. Justice G.F.Dove-Edwin - J.A.
Hon.Mr.Justice J.B.Marcus-Jones - P.J.

Joseph Allen Smith v. Fatula C.
Walker & Anor.

No. 24
Proceedings
3rd June 1966

10 McCormack for Appellants
Desmond Luke for Respondent.

Judgment read by President.

Order: Appeal allowed. The Order of the
Court below is set aside and the appellants
are to have the costs of that Court and those
in this Court in each case to be taxed.

(Sgd) S.B.Jones - President.
(Sgd) G.F.Dove-Edwin - J.A.
(Sgd) J.B.Marcus-Jones - P.J.

20 NO. 25.
JUDGMENT

No. 25.
Judgment
3rd June 1966

Civ.App.5/66

IN THE COURT OF APPEAL FOR SIERRA LEONE

General Sittings held at Freetown in the
Western Area of the Sovereign State of
Sierra Leone

30 CORAM: Sir Samuel Bankole Jones - President
George Frederick Dove-Edwin -
Justice of Appeal
J.B. Marcus-Jones - Puisne Judge
BETWEEN:
JOSEPH ALLEN SMITH Respondent
AND
Fatula Christiana Walker
and anor Appellants

In the Court
of Appeal

No.25.

Judgment

3rd June 1966
(continued)

Mr. D.E.F.Luke for the Respondent
Mr. E.J. McCormack for the Appellants

Judgment delivered on the 3rd day
of June, 1966

SIR SAMUEL BANKOLE JONES, P.: The claim in the court below was for an order to set aside a registered deed of gift dated the 6th day of October 1953 made between Ransolina Patience Cromanty deceased, the donor of the one part and the defendants, the donees, now the appellants of the other part. Apart from delineating the boundaries of the property, the deed was silent as to its number (municipal). Both parties were however agreed that the number was 98 Fourah Bay Road. The learned judge in his judgment ordered that the deed of gift be set aside and that the property "be dealt with in the manner laid down in the will of Jacob Williamson Sawyerr (deceased)". It is against this decision that the defendants have appealed to this Court.

Now, 98 Fourah Bay Road was owned by James Beresford Sawyerr and mortgaged by him on the 16th May 1895 to his brother the above named Jacob Williamson Sawyerr. On the date of the execution of the mortgage deed which was subsequently registered in Freetown, and at all material times, the mortgagor resided in Freetown, Sierra Leone, and the mortgagee in Accra, Gold Coast, now Ghana. The mortgage was redeemable on the 8th February 1897. The learned judge found, and, I think rightly so on the evidence, that up to the date of the death of the mortgagor which took place on the 17th May 1909 in Freetown, a period of just over twelve years, it had not been redeemed. The mortgagee died on the 15th August 1916 in Accra without having exercised his right of foreclosure or sale under the mortgage deed, and left a will dated 30th May 1908 which was probated in

Accra by the only surviving executor named in the Will namely, Ransolina Patience Cromanty on the 14th October, 1916. It should be noted in passing that the probate was not re-sealed in Sierra Leone. Only the will was registered. For the purposes of this judgment, this is not important. In the will however, Jacob Williamson Sawyerr devised among other properties his "freehold lands with the buildings thereon situate at Fourah Bay Road and farm land at Fourah Bay Road all in Freetown" to his two brothers, his sister the said Ransolina Patience Cromanty and his two daughters in equal share. "98 Fourah Bay Road" was not specifically mentioned in the will but the parties were also all agreed that that property formed part of the "freehold lands with the buildings thereon situate at Fourah Bay Road and Farm land at Fourah Bay Road all in Freetown" devised in the said Will.

In the Court
of Appeal

No. 25.

Judgment

3rd June 1966
(continued)

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After the death of James Beresford Sawyerr in 1909 the evidence, as well as the admissions of the parties, disclosed that Ransolina Patience Cromanty entered into possession of 98 Fourah Bay Road and continued in uninterrupted possession from 1909 up to her death in 1957. The judge's note on this latter point is as follows :-

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Note "Both sides agree that for the period 1909 up to death of Mrs. Cromanty in 1957 the rates in respect of No. 98 Fourah Bay Road Freetown were paid by Mrs. Ransolina Cromanty. Both sides also agree that since 1913 the name of Mrs. Ransolina Cromanty had appeared in the Rates Register as owner of the premises No. 98 Fourah Bay Road Freetown."

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Now the learned judge found as follows :-

"Jacob Williamson Sawyerr died on the 15th August, 1916, at Accra Gold Coast now

In the Court
of Appeal

No. 25.

Judgment

3rd June 1966
(continued)

Ghana leaving his last Will and Testament dated the 30th day of May, 1908. I am satisfied on the evidence that on the date of his death the mortgaged premises at Fourah Bay Road belonged to and formed part of the estate of Jacob Williamson Sawyerr."

This finding supports the contention of the Respondent in this Court and in the Court below. The appellants on the other hand have always contended that 98 Fourah Bay Road did not form part of the estate of Jacob Williamson Sawyerr (deceased) and also that the disposal of this property in his Will was wrong in law. They have always contended that Ransolina Patience Cromanty acquired title to this property by virtue of the Statute of Limitation and that was why, according to them, she was entitled to convey it by deed of gift to them. 10 20

There are four grounds of appeal but I think only two need be considered namely:-

1. "The learned trial Judge was wrong in law and in fact by his finding that at the date of death of Jacob Williamson Sawyerr, the mortgaged premises No. 98 Fourah Bay Road belonged to him and passed under the devise in his will". 30
2. "The learned trial Judge misapplied the law of mortgages to the facts herein when he held that the right of redemption on the part of James Beresford Sawyerr (the mortgagor) of the premises mortgaged had been lost by lapse of time".

These grounds raise two questions of law for the determination of this court. Firstly, did the property in question form part of the estate of Jacob Williamson Sawyerr on the date of his death in 1916 and secondly did Ransolina Patience Cromanty possess the legal right to 40

convey it by deed of gift as she did to the appellants?

In the Court
of Appeal

No.25.

Judgment

3rd June 1966
(continued)

10 Now as to the first question. James Beresford Sawyerr the mortgagor, as has been stated above, failed to redeem the property at the time and in the manner covenanted by him in the mortgage deed - Exh. J.1, and accordingly it seems to me to be the law that Jacob Williamson Sawyerr's right as a mort-
gagor to foreclosure or sale was extinguished after the period of twelve years had run out as from the 8th February 1897 to 17th May 1909 and the effect of this was to bar his title and in the circumstances vest the legal estate in the mortgagor. See Kibble v. Fairthorne 1895, K.B.D. 219 see also Sec. 16 of our Limitation Act, No. 51 of 1961 which reads as follows :-

20 "16. Subject to the provisions of Sec. 8 of this Act at the expiration of the period prescribed by this Act for any person to bring an action to recover land (including a redemption action) the title of that person to the land shall be extinguished".

Section 8 relates to settled land and land held on trust, which is not the case here. The period prescribed by the Act for the purpose stated in the above section is twelve years.

30 On the evidence it was quite clear that the mortgagee was never in possession of the property and it is a reasonable and fair inference from all the surrounding circumstances that from the date of execution of the mortgage deed, the mortgagor was in possession and was so in possession up to the date of his death. It follows then in my opinion, that the answer to the first question is, that the property, with respect
40 to the learned judge did not in law form part of the estate of Jacob Williamson Sawyerr (deceased) and he therefore had no right to have devised it in his will as he did.

In the Court
of Appeal

No. 25.

Judgment

3rd June 1966
(continued)

Now as to the second question. As has been stated also, Ransolina Patience Cromanty entered into possession of the property, it seems, immediately after the death of the mortgagor in 1909 and continued to be in undisturbed possession until her death in 1957, a period of forty-eight years. But on the other hand, she was the lawful sister of the mortgagor, and together with other relations acquired an interest in the property on his death intestate. As the law then stood, the property became vested in the then Curator of Intestate Estates Ordinance 1887. There is no evidence whatever that the Curator took possession within the required statutory period for the purposes of administration. He appeared to have allowed time to run out against him and in favour of Ransolina Patience Cromanty. He was in no better position than an ordinary administrator against whom the twelve year period under the Statute of Limitation applied, and consequently his right over the property became barred by lapse of time. See In the matter of the Estate of Josiah Pratt (deceased) Vol. 2 The Sierra Leone Recorder p.9 at p.11 and In the matter of certain lands at and about the Grass Fields, Wellington in the Colony of Sierra Leone and C. Walton Jackson Vol. 2 The Sierra Leone Law Recorder p.12. 10 20 30

The answer therefore to the second question is, that Ransolina Patience Cromanty having acquired and indefeasible possessory title to this property, she consequently and unquestionably possessed the legal right to part with it by whatever means she chose and to whomsoever she pleased. She parted with it by means of a deed of gift and to the appellants who were no strangers in blood to her. It follows therefore that the appellants must be considered the lawful owners of the property 98 40

Fourah Bay Road in accordance with the provisions of the deed of gift of the 6th October 1953. The appeal is accordingly allowed and the order of the Supreme Court is set aside.

(Sgd) S.B. Jones President
I agree (Sgd) G.F.Dove-Edwin. Justice of
Appeal.
I agree (Sgd) J.B.Marcus-Jones.Puisne Judge.

NO.26.

ORDER

In the Court
of Appeal

No. 26

Order

3rd June 1966

IN THE COURT OF APPEAL FOR SIERRA LEONE

Certificate of the Order of the Court.

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Appeal from the judgment of the Honourable
Mr. Justice C.O.E.Cole Acting Chief Justice
dated the 7th day of January, 1966.

C.C.176/64 Motion
Civ.App.5/66.....Appeal No.
Joseph Allen Smith.....Respondent
Fatula C. Walker & Anor.....Appellants

(Sgd) S.B.Jones
PRESIDENT

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This appeal coming on for hearing on the
25th and 26th days of May, 1966 and the 3rd day
of June, 1966 before the Honourable Sir Samuel
Bankole Jones President, the Honourable Mr.
Justice G.F.Dove-Edwin Justice of Appeal and
the Honourable Mr. Justice J.B. Marcus-Jones
Puisne Judge in the presence of Mr. E.J.
McCormack for the Appellants and Mr. Desmond
E.F.Luke for the Respondent.

I HERE CERTIFY that an Order was made as
follows :-

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"Appeal allowed. The order of the Court
below is set aside and the appellants are
to have the costs of that court and those
in this Court in each case to be taxed".

Given under my hand and the seal of the
Court this 3rd day of June, 1966.

(Sgd) A. Nithianandan

REGISTRAR

In the Court
of Appeal

NO.27.

PROCEEDINGS.

No.27.

Proceedings

12th July 1966

IN THE COURT OF APPEAL FOR SIERRA LEONE
(Tuesday 12th July 1966)

Coram: Hon. Sir Samuel Bankole Jones -
President
Hon. Mr. Justice G.F. Dove-Edwin - J.A.
Hon. Mr. Justice R.B. Marke - P.J.

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Joseph Allen Smith vs. Fatula
Christiana Walker and Taiwo
Victoria Edwards.

Desmond Luke for Applicants.
McCormack for Respondent.

Luke: A motion for leave to appeal to her
Majesty in Council. Read motion paper and
affidavits. The property is of the value
of Le.1000 and upwards.

McCormack: I have no objection.

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Court: Leave granted on the following
conditions

(1) Within three months hereof the appellants to provide two sureties to be approved of by the Registrar of this Court to enter into a bond together with the application in the sum Le.1000 for the due prosecution of the appeal and the payment of all such costs as may be come payable to the Registrar in the event of the appellant not obtaining an order granting him final leave to appeal or if the appeal being dismissed for non-prosecution, or if Her Majesty in Council ordering the appellant to pay the Respondents costs of the appeal as the case may be.

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(2) Within three months the appellant to take all necessary steps to comply with Rule 4 (b) to be found in P.N. 79 of 1961.

Stay of execution granted until final determination of the case. Property not to be disposed of in any manner whatever.

(sgd) S.B. Jones - President
(sgd) G.F.Dove-Edwin - J.A.
(sgd) R.B. Marke - P.J.

In the Court
of Appeal

No.27.

Proceedings

12th July 1966
(continued)

10 IN THE COURT OF APPEAL FOR SIERRA LEONE
(Monday, 26th September, 1966)

26th September
1966

Coram: Hon. Sir Samuel Bankole Jones -
President
Hon.Mr. Justice G.F.Dove-Edwin - J.A.
Hon.Mr.Justice J.N.Marcus-Jones -P.J.

Joseph A. Smith

and

Fatula C. Walker & Anor.

20 Desmond Luke for Plaintiff/Applicant.
Mr. McCormack for Defendant/Respondent.

Luke: This is an application final leave to be granted to the Plaintiff/Applicant to appeal to Her Majesty in Council. The affidavit speak for itself. All conditions have been fulfilled.

Court: Application is granted.

(sgd) S.B. Jones -
President.

In the Court
of Appeal

NO.28.

No. 28

ORDER GRANTING FINAL LEAVE TO APPEAL
TO HER MAJESTY IN COUNCIL

Order granting
Final Leave to
Appeal to Her
Majesty in
Council

In the Court of Appeal for Sierra Leone
Between: Joseph Allen Smith Plaintiff/Applicant
and

26th September
1966

Fatula Christiana Walker
Taiwo Victoria Edwards
Defendants/Respondents

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The Hon.Sir Samuel Bankole Jones - President
The Hon.Justice G.F.Dove-Edwin - Justice of
Appeal
The Hon.Justice J.B.Marcus-Jones - Justice of
Appeal

Monday the 26th day of September 1966

UPON the Plaintiff/Applicant's motion dated
the 21st day of September 1966 for an Order
that the Plaintiff/Applicant be granted final
leave to Appeal to Her Majesty in Council
against the judgment of the Honourable Court
dated the 3rd day of June 1966 AND UPON
READING the affidavit of DESMOND EDGAR
FASHOLE LUKE sworn the 21st day of September
1966 and filed herein and UPON HEARING
DESMOND EDGAR FASHOLE LUKE ESQUIRE of Counsel
for the Plaintiff/Applicant and E.J.McCormack
Esquire of Counsel for the Defendants/
Respondents.

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IT IS BY CONSENT ORDERED that final leave to
appeal to Her Majesty in Council be granted.

BY THE COURT

A. NITHIANANDAN

REGISTRAR

EXHIBITSN.1. INDENTURE, WILLIAM SMITH TO
JAMES B. SAWYERRExhibits

N.1.

Indenture,
William Smith to
James B. Sawyerr

6th July 1887

THIS INDENTURE made the sixth day of July
in the year of Our Lord
One thousand eight hundred and eighty seven
BETWEEN WILLIAM SMITH of Saint Helliers in
the Island of Jersey Gentleman late Registrar
of the Court of Mixed Commissions in the
Settlement of Sierra Leone of the one part and
JAMES BERESFORD SAWYER of Freetown in the
Settlement of Sierra Leone of the one part and
JAMES BERESFORD SAWYERR of Freetown in the
Settlement of Sierra Leone aforesaid Writing
Clerk of the other part Whereas by Indenture
bearing date the Twenty third day of September
in the year of Our Lord One thousand eight
hundred and seventy and made Between Henry
Denman Macaulay of Swaylands in the parish of
Penshurst in the County of Kent in England of
the one part and the said William Smith of the
other part in consideration of the sum of
Twenty five pounds sterling paid to the said
Henry Denman Macaulay by the said William
Smith he the said Henry Denman Macaulay did
grant All That piece or parcel of land situate
on the South-West side of Fourah Bay Road in
Freetown aforesaid containing two statute acres
more or less and being the whole of that allot-
ment of land made to the First Nova Scotian
Settlers by the Sierra Leone Company and
numbered One Hundred and one and situate on the
Fourth Block Line of the said Allotments And
also All that other piece or parcel of land
situate on the South West side of Fourah Bay
Road aforesaid containing seven statute acres
more or less and being a portion of the said
Nova Scotian Allotments numbered one hundred
and two And Whereas the said William Smith
has since the date of the last mentioned
Indenture subdivided the said Nova Scotian
Allotments into smaller town lots of land and

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Exhibits

N.1.

Indenture

William Smith to
James B. Sawyerr6th July 1887
(continued)

eighty six of such subdivisions have in a plan drawn by John Witchel Jenkins late Colonial Surveyor in Sierra Leone aforesaid of the said Allotments showing the said subdivisions been numbered respectively from number one to number eighty six both inclusive And Whereas the said William Smith has agreed with the said James Beresford Sawyerr for the sale to him in fee simple in possession at the price of Fifty pounds sterling of the lands and hereditaments intended to be granted and being portions of the said Nova Scotian Allotments numbered one hundred and one and one hundred and two and numbered as hereinafter mentioned among the said subdivisions of the said Allotments NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of Fifty Pounds sterling to the said William Smith this day paid by the said James Beresford Sawyerr (the receipt whereof the said William Smith doth hereby acknowledge) he the said William Smith doth hereby grant unto the said James Beresford Sawyerr his heirs and assigns Firstly All that triangular lot piece or parcel of land situate near Fourah Bay Road aforesaid which is a portion of the said Nova Scotian Allotments numbered one hundred and one and is bounded on the East by a portion of the subdivision numbered Fifty-four of the said Nova Scotian Allotments Thirty feet on the Southwest by the subdivision numbered sixty three of the said Nova Scotian Allotments Fifty two feet and on the North by the subdivision numbered Eighty three of the said Nova Scotian Allotments Forty-four feet which said triangular lot piece or parcel of land expressed to be hereby firstly granted is a portion of the said subdivision of the said Nova Scotian Allotments numbered Fifty-four and is delineated in the Plan drawn on the margin of these presents and therein marked A

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And Secondly All That other lot piece or parcel of land situate in Fourah Bay Road aforesaid which is a portion of the said Nova Scotian Allotments numbered one hundred and one and is bounded on the East by the subdivision numbered eighty two of the said Nova Scotian Allotments Sixty eight feet on the West by a proposed New Street sixty six feet on the North by Fourah Bay Road aforesaid Forty eight feet and on the South by two straight lines meeting at an angle and measuring respectively Fifty two feet and Twenty three feet and forming portions of the Northern boundary lines of the subdivisions numbered Fifty four and sixty three respectively of the said Nova Scotian Allotments and is the subdivision numbered eighty three of the said Nova Scotian Allotments and is delineated in the Plan drawn on the margin of these presents and therein marked B And thirdly All that other lot piece or parcel of land situate in Fourah Bay Road aforesaid which is a portion of the said Nova Scotian Allotments numbered one hundred and two and is bounded on the East by the subdivision numbered Fifty three of the said Nova Scotian Allotments Fifty four feet on the West by a proposed New Street Fifty four feet on the North by a straight line measuring Seventy five feet and forming part of the Southern Boundary line of the said subdivision of the said Nova Scotian Allotments numbered Eighty three and part of the Southern boundary line of the said subdivision numbered Fifty four of the said Nova Scotian Allotments and on the South by the subdivision numbered sixty two of the said Nova Scotian Allotments Seventy five feet and is the subdivision numbered sixty three of the said Nova Scotian Allotments and is delineated in the Plan drawn on the margin of these presents and therein marked C Together with all buildings fixtures rights easements advantages and appurtenances whatsoever to the said lands and hereditaments and every of them expressed to be hereby granted appertaining or with the same held or enjoyed or reputed as part

Exhibits

N.1.

Indenture

William Smith to
James B. Sawyerr6th July 1887
(continued)

Exhibits

N.1.

Indenture

William Smith to
James B. Sawyerr6th July 1887
(continued)

thereof or appurtenant thereto And all the Estate right title interest claim and demand of him the said William Smith into and upon the said premises To Hold the said premises expressed to be hereby granted Unto the said James Beresford Sawyerr his heirs and assigns To the use of the said James Beresford Sawyer his heirs and assigns And the said William Smith doth hereby for himself his heirs executors and administrators covenant with the said James Beresford Sawyerr his heirs and assigns that notwithstanding anything by the said William Smith done or knowingly suffered he the said William Smith now hath power to grant all the said premises to the use of the said James Beresford Sawyerr his heirs and assigns in manner aforesaid free from incumbrances And that all the said premises may be quietly entered into held and enjoyed by the said James Beresford Sawyerr his heirs and assigns without any interruption by the said William Smith or any person claiming any Estate or interest in the premises through or in trust for him And that he the said William Smith and every person claiming any estate or interest in the premises through or in trust for his will at all times at the cost of the said James Beresford Sawyerr his heirs and assigns execute and do all such assurances and things for further or better assuring all or any of the said premises to the use of the said James Beresford Sawyerr his heirs and assigns as by him or them shall be reasonably required And the said William Smith doth hereby authorise William Broughton Davies of George Street in Freetown aforesaid Doctor of Medicine and William Renner of Charlotte Street in Freetown aforesaid Assistant Colonial Surgeon of the Settlement of Sierra Leone aforesaid jointly and each of them severally to appear before the Registrar General of Sierra Leone aforesaid and

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acknowledge these presents and the signature thereto of him the said William Smith as his act and deed and to have these presents duly enrolled and registered in the Office of the said Registrar General.

Exhibits

N.1.

Indenture

In Witness whereof the said parties hereto have hereunto set their hands and seals the day and year first above written

William Smith to
James B. Sawyerr

6th July 1887
(continued)

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W. Smith (L.S.)
J. Beresford Sawyerr (L.S.)

Signed sealed and delivered by the above-named William Smith at Saint Helliers in the Island of Jersey in the presence of:

J.G.Fallot,
Auctioneer, 7, Library Place,
Jersey.

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R.E. Burgess, Clerk,
7, Library Place Jersey.

Signed sealed and delivered by the above-named James Beresford Sawyerr in the presence of:-

J.W.M.Horton, Law Clerk to the
Honourable S. Lewis Barrister-
at-Law.

J.J. Morris, Law Clerk to the
Honourable S.Lewis, B.L.

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£50. 0. 0.

Received on the day of the date of the within written Indenture from James Beresford Sawyerr within named the sum of Fifty pounds sterling being the consideration money expressed in and by the said Indenture to be paid by him to me.

Wm. Smith
6.7.87

Exhibits

N.1.

Indenture

William Smith to
James B. Sawyerr

6th July 1887
(continued)

Witnesses

J.G. PALLOT
R.E.BURGESS

No. 53. This Instrument was acknowledged by William Renner within named duly authorised by William Smith of Saint Heliers in the Island of Jersey to be the deed of William Smith before me this Twenty eighth day of February in the year one thousand eight hundred and eighty nine at Fifty five minutes past one o'clock in the afternoon.

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Jas. Kennedy Donaldson,
Registrar General for the
Colony of Sierra Leone.

No. 241/150827/65 I hereby certify that this is a true and correct copy of a Registered Conveyance from the Registrar-General's Office that is to say from Volume 44 Page 141 of the Record Books of Conveyances made in pursuance of the General Registration Act and that the same is now under my custody, among other Registers.

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Dated this 15th day of November, 1965.

Z.C. O'REILLY,
for REGISTRATION OFFICER,
SIERRA LEONE

Certified true Copy

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A.NITHIANANDAN

Registrar

J.1. INDENTURE, J.B. SAWYERR TO JACOB W. SAWYERR

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr

16th May 1895

Sierra Leone	Sierra Lone	Sierra Leone
Five	Five	Five
Shillings	Shillings	Shillings
Stamp Duty	Stamp Duty	Stamp Duty
Impressed	Impressed	Impressed
Stamp	Stamp	Stamp

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THIS INDENTURE made the Sixteenth day of
May in the year of our Lord
One thousand eight hundred and ninety five
Between James Beresford Sawyerr of Freetown
in the Colony of Sierra Leone Trader of the
one part and Jacob Williamson Sawyerr of
Freetown aforesaid but now temporarily
residing at Accra on the West Coast of
Africa Merchant of the other part

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WITNESSETH that in consideration of the sum
of Three hundred and twenty-eight pounds
one shilling and ten pence sterling to the
said James Beresford Sawyerr Cut this day
lent and paid by the said Jacob Williamson
Sawyerr the receipt whereof the said James
Beresford Sawyerr doth hereby acknowledge he
the said James Beresford Sawyerr doth hereby
for himself his heirs executors and

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administrators covenant with the said Jacob
Williamson Sawyerr his executors and
administrators that he the said James
Beresford Sawyerr his heirs executors or
administrators will pay to the said Jacob
Williamson Sawyerr his executors administrators
or assigns the sum of Three hundred and
twenty-eight pounds one shilling and ten
pence sterling with interest for the same in
the meantime at the rate of Five pounds per
centum per annum on the eighth day of

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February in the year of Our Lord One thousand
eight hundred and ninety-seven And this
Indenture also witnesseth that for the

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr16th May 1895
(continued)

consideration aforesaid he the said James Beresford Sawyerr doth hereby grant unto the said Jacob Williamson Sawyerr his heirs and assigns Firstly All that triangular lot piece or parcel of land situate near Fourah Bay Road aforesaid which is a portion of the Nova Scotian Allotments numbered One hundred and one and is bounded on the East by a portion of the subdivision numbered Fifty-four of the said Nova Scotian Allotments Thirty feet on the South West by the subdivision numbered Sixty-three of the said Nova Scotian Allotments Fifty-two feet and on the North by the subdivision numbered Eighty-three of the said Nova Scotian Allotments Forty-four feet which said triangular lot piece or parcel of land expressed to be hereby Firstly granted is a portion of the said Subdivision of the said Nova Scotian Allotments numbered Fifty-four and is delineated on the plan drawn at the foot hereof and therein marked A Secondly All that other lot piece or parcel of land situate in Fourah Bay Road aforesaid which is a portion of the said Nova Scotian Allotments and numbered One hundred and one and is bounded on the East by the subdivision numbered Eighty-two of the said Nova Scotian Allotments sixty-eight feet on the West by a proposed New Street Sixty-six feet on the North by Fourah Bay Road aforesaid Forty-eight feet and on the South by two straight lines meeting at an angle and measuring respectively Fifty-two feet and twenty-three feet and forming portions of the Northern boundary lines of the subdivisions numbered Fifty-four and sixty-three respectively of the said Nova Scotian Allotments and is the subdivision numbered eighty-three of the said Nova Scotian Allotments and is delineated in the plan drawn at the foot hereof and therein marked B And Thirdly All that other lot piece or parcel of land situate in Fourah Bay Road aforesaid which is a portion of the said Nova

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Scotian Allotments numbered One hundred and two and is bounded on the East by the subdivision numbered Fifty-three of the said Nova Scotian Allotments Fifty-four feet on the West by a proposed New Street Fifty-four feet on the North by a straight line measuring Seventy-five feet and forming part of the Southern boundary line of the said subdivision of the said Nova Scotian allotments numbered Eighty-three and part of the Southern boundary line of the said subdivision numbered Fifty-four of the said Nova Scotian Allotments and on the South by the subdivision numbered Sixty-two of the said Nova Scotian Allotments Seventy-five and is the subdivision numbered Sixty-three is the said Nova Scotian allotments and is delineated in the plan drawn at the foot hereof and therein marked C Together with all buildings fixtures rights easements advantages and appurtenances whatsoever to the said lands hereditaments expressed to be hereby granted appertaining or with the same or any part thereof held as enjoyed or reputed or as part thereof or as appurtenant thereof And All the estate right title interest claim and demand of him the said James Beresford Sawyerr into and upon the said premises expressed to be hereby granted unto the said Jacob Williamson Sawyerr his heirs and assigns to the use of the said Jacob Williamson Sawyerr his heirs and assigns but subject to the proviso for redemption herein-after contained Provided Always that if the said James Beresford Sawyerr his heirs executors administrators or assigns shall pay unto the said Jacob Williamson Sawyerr his executors administrators or assigns the sum of Three hundred and twenty-eight pounds one shilling and ten pence sterling interest for the same in the meantime at the rate of Five pounds per centum per annum on the Eighth day of February in the year of Our Lord One thousand eight hundred and ninety-seven then the said Jacob Williamson Sawyerr his heirs or

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr16th May 1895
(continued)

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr16th May 1895
(continued)

assigns will at any time thereafter upon the request and at the cost of the said James Beresford Sawyerr his heirs executors administrators or assigns reconvey the same premises unto the said James Beresford Sawyerr his heirs or assigns as he or they shall direct And the said James Beresford Sawyerr doth hereby for himself his heirs executors and administrators covenant with the said Jacob Williamson Sawyerr his executors and administrators that if the said sum of Three hundred and twenty-eight pounds one shilling and ten pence sterling or part thereof shall remain unpaid at the Eighth day of February in the year of Our Lord One thousand eight hundred and ninety-seven he the said James Beresford Sawyerr his heirs executors or administrators will so long as the same sum or any part thereof shall remain unpaid pay to the said Jacob Williamson Sawyerr his executors administrators or assigns interest for the said sum of Three hundred and twenty-eight pounds one shilling and ten pence sterling or for so much thereof as shall for the time being remain unpaid at the rate of Five pounds per centum per annum by equal half yearly payments on the Eighth day of February and the Eighth day of August in every year without any deduction And it is hereby declared that the said Jacob Williamson Sawyerr his heirs executors administrators or assigns may at any time or times after the said Eighth day of February in the year of Our Lord One thousand eight hundred and ninety-seven without any further consent on the part of the said James Beresford Sawyerr his heirs or assigns sell the said premises or any part thereof either together or in parcels and either by Public Auction or Private Contract and may execute and do all such assurances and things for effectuating any such sale as he or they shall think fit And that upon a sale by any person or persons who may not be seised of the legal estate in

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the premises sold the person or persons in whom the legal estate shall be vested shall execute and do all such assurances and things for carrying the sale into effect as the person or persons by whom the sale shall be made shall direct Provided nevertheless that the said Jacob Williamson Sawyerr his heirs executors administrators or assigns shall not execute the power of sale hereinbefore contained until he or they shall have given to the said James Beresford Sawyerr his heirs executors administrators or assigns or left on the said premises a notice in writing to pay off the monies for the time being owing on the security of these presents and shall have been made in such payment for three calendar months after given or leaving such notice or until the whole or part of some half yearly payment of interest shall have become in arrear for three calendar months Provided also that upon any sale purporting to be made in pursuance of the aforesaid power no purchaser or purchasers shall be bound to enquire whether either of the cases mentioned in the clause lastly hereinbefore contained has happened or whether any money remains upon the security of these presents nor as to the propriety or regularity of such sale and notwithstanding any impropriety or irregularity whatsoever in any such sale the same shall as regard the purchaser or purchasers be deemed to be within the aforesaid power and be valid accordingly And it is hereby declared that the receipt of the said Jacob Williamson Sawyerr his executors administrators or assigns for the purchase monies of the premises sold or any part thereof shall effectually discharge the purchaser or purchasers therefrom and from being concerned to see to the applications thereof And it is hereby further agreed and declared that the said Jacob Williamson Sawyerr his executors administrators and assigns shall by and out of the monies which shall arise from any such sale in pursuance of the aforesaid power in the first place pay

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr16th May 1895
(continued)

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr16th May 1895
(continued)

the expenses incurred on such sale or otherwise in relation to the premises and in the next place apply such monies in or towards satisfaction of the monies for the time being owing on the security of these presents and then pay the surplus (if any) of the monies which shall arise from such sale to the said James Beresford Sawyerr his heirs or assigns And that the aforesaid power of sale and other powers may be exercised by any person or persons for the time being entitled to receive and give discharge for the monies then owing on the security of these presents Provided always that the said Jacob Williamson Sawyerr his executors administrators or assigns shall not be answerable for any voluntary losses which may happen in the exercise of the aforesaid power and trusts or any of them And the said James Beresford Sawyerr doth hereby for himself his heirs executors and administrators covenant with the said Jacob Williamson Sawyerr his heirs and assigns that he the said James Beresford Sawyerr now hath power to grant all the said premises unto and to the use of the said Jacob Williamson Sawyerr his heirs and assigns in manner aforesaid free from incumbrances and that all the said premises may be quietly entered into held and enjoyed by the said Jacob Williamson Sawyerr his heirs and assigns without any interruption by any person and that he the said James Beresford Sawyerr and any person claiming any estate or interest in the premises will at all times at the cost until sale or foreclosure of the said Jacob Beresford Sawyerr his heirs executors or administrators and afterwards of the person or persons requiring the same execute and do all such assurances and things for further or better during all or any of the said premises to the use of the said Jacob Williamson Sawyerr his heirs and assigns in manner aforesaid as by him or them shall be

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reasonably required In witness whereof the said parties hereto have hereunto set their hands and seals the day and year first above written

Exhibits

J.1.

J.Beresford Sawyerr (L.S.)
J.W. Sawyerr (L.S.)

Indenture

J.B. Sawyerr to
Jacob W.Sawyerr

Signed sealed and delivered by the above named James Beresford Sawyer in the presence of

16th May 1895
(continued)

10 D. Dickson Doherty of Duke Street
Freetown. Clerk to the Hon. S.
Lewis, B.L. C.E.G.

Signed sealed and delivered by the above named Jacob Williamson Sawyerr at Accra in the presence of

W. Wilberforce Ltd. Auctioneer
E.B. Thompson, Trader.

20 £328. 1. 10 Received on the day of the date of the within written Indenture from Jacob Williamson Sawyerr within named the sum of Three hundred and twenty-eight pounds one shilling and ten pence sterling being the consideration money expressed in and by the said Indenture to be paid by him to me.

J. Beresford Sawyerr.

Witness

D.D.Doherty
T. Gev Lewis

30 This Instrument was acknowledged by the within named Jacob Williamson Sawyerr before me this Twenty second day of April at Accra in the Gold Coast Colony at two o'clock in the afternoon in the year One thousand eight hundred and ninety-five.

Given und er my hand and official seal

(L.S.) W.H. Addams
District Commissioner

Exhibits

J.1.

Indenture

J.B. Sawyerr to
Jacob W. Sawyerr

16th May 1895
(continued)

No. 21

1895 This Instrument was delivered for registration this sixth day of August in the year One thousand eight hundred and ninety-five at 9 o'clock in the forenoon by John William Moses Horton Clerk to the Honourable Samuel Lewis Barrister-at-Law.

Stamp Duty Registrar General for the
21/- Colony of Sierra Leone.

10

No. 259/201510/65 I hereby certify that this is a true and correct copy of a Registered Mortgage Deed from Registrar General's Office that is to say from Volume 14 Page 205 of the Record Book of Mortgages made in pursuance of the General Registration Act, and that the same is now under my custody among other registers.

Dated this 17th day of December, 1965.

20

(sgd) ?
for Registration Officer
Sierra Leone.

Copies by:- J.S.Smith
Checked by:- E. Marke

K.1.

Probate of
Jacob W.Sawyerr

15th August 1916

K.1. PROBATE OF JACOB W.SAWYERR

No. 60

P R O B A T E

30

IN THE SUPREME COURT OF THE GOLD COAST COLONY

Be it known, that on the 14th day of October, 1916, the last Will (a copy whereof is hereunto annexed) of Jacob Williamson Sawyerr late of Accra deceased, who died on the 15th day of August, 1916 at Accra and who at the time of his death, had his fixed place of abode at Accra, within the jurisdiction of this Court, was proved and registered in

this Court; and that the administration of the personal property of the said deceased was granted by this Court to Ransolina Cromanty executrix named in the said Will she having been first duly sworn.

(L.S.) (Sgd) A. WHITE,
Signature of Chief Registrar.

Exhibits

K.1.

Probate of
Jacob W. Sawyerr

15th August 1916
(continued)

10 This Grant is made upon the condition
that no portion of the assets shall be
distributed or paid during the War to any
beneficiary or creditor who is a German
Austro-Hungarian Turkish or Bulgarian subject,
wherever resident, or to anyone on his
behalf or to or on behalf of any person
resident in Germany, Austria-Hungary,
Turkey or Bulgaria of whatever nationality,
20 without the express sanction of the Governor,
and if any distribution or payment is made
contrary to this condition the Grant of
Probate or Letters of Administration will be
forthwith revoked.

(L.S.) (Sgd) A. WHITE.

(Sgd) CRAMPTON SMYLY,
Chief Justice.

Sworn under £700. 0. 0. and that
the Testator died on or about
the 15th day of August, 1916.

30 This is the Last Will and Testament of me,
JACOB WILLIAMSON SAWYERR Merchant of Accra
in the Gold Coast Colony West Coast of
Africa. I hereby revoke all testamentary
disposition heretofore made by me and declare
this to be my last Will.

I appoint George Gladstone Cole, Arthur
Edward Boyle and Mrs. Ransolina Patience
Cromanty of Sierra Leone my Executors and
Trustees hereof.

Exhibits

K.1.

Probate of
Jacob W. Sawyerr
15th August 1916
(continued)

I hereby bequeath to my son Gosford Collins alias Akilapha and to my daughters Ransolina Patience and Florence Fatala by Alice Quartey all the furniture plate, linen, glass, Picture and other household effects which shall at my death be in or about my dwelling house commonly known as "GENTLE LODGE" situate in Lutterodt Road Accra to be divided as follows - One half to the former and the other half to the latter.

10

I devise and bequeath my freehold land with the buildings thereon situate at Williams Street to my son Gesford Collins alias Akilapha his heirs executors administrators and assigns for his and their own use and benefit absolutely and forever.

I devise and bequeath my freehold land with the buildings thereon situate at Pegan Road Accra to Alice Quartey and her children by me and their assigns forever as per my Deed of Gift to them dated the 7th day of December One thousand nine hundred and six.

20

I devise and bequeath my freehold land situate in Lutterodt Road Accra to my son Nicholas Albert by Christiana Quartey his heirs and assigns forever as per my Deed of Gift to him dated the Seventh day of December One thousand nine hundred and six.

I devise and bequeath my freehold land situate in Lutterodt Road Accra to Georgiana Lucretia my daughter by Christiana Quartey her heirs and assigns forever as per my Deed of Gift to her dated the Seventh day of December One thousand nine hundred and six.

30

I devise and bequeath my freehold land situate in Lutterodt Road Accra to my son William Jeffres by Mary Blankson his heirs and assigns forever as per my Deed of Gift dated the Seventh day of December One thousand nine hundred and six.

40

I devise and bequeath my freehold land situate in Lutterodt Road Accra to my son Thomas Francis Ogushon by Mary Blankson his heirs and assigns forever as per my Deed of Gift dated Seventh day of December One thousand nine hundred and six.

Exhibits

K.1.

Probate of
Jacob W. Sawyerr

15th August 1916
(continued)

10 I devise and bequeath my freehold land situate in Horse Road Accra to Annie Sabina and Marie Eliza my daughters by Korkor their heirs and assigns forever as per my Deed of Gift dated the Seventh day of December One thousand nine hundred and six.

I devise and bequeath my freehold land situate in Boundary Road Accra to my daughter Janet Wilhelmina by Mrs. Maryann Davies her heirs and assigns forever as per my Deed of Gift dated the Seventh day of December One thousand nine hundred and six.

20 I devise and bequeath my freehold land with the buildings thereon situate in Boundary Road Accra to Affuah Sackey her heirs and assigns as per my Deed of Gift to her.

30 I devise and bequeath my freehold land with the buildings thereon situate at Luttered Road Accra known As "GENTLE LODGE" to each of my son and daughters with their heirs and assigns forever whose names mentioned in this my Will and it is my express wish that this property be not encumbered nor sold and that it must descend from children to children.

40 I devise and bequeath my freehold land with the buildings thereon situate at Fourah Bay Road, Malta Street, Lucas Street and Farm land at Fourah Bay Road all in Freetown Sierra Leone to my brothers Richard William, James Beresford, my sister Ransolina Patience Cromanty and to my daughters Georgiana Lucretia and Jane Alice all in equal share and it is my express desire that these lands be not sold but they must descend from children to children.

Exhibits

K.1.

Probate of
Jacob W.Sawyerr
15th August 1916
(continued)

I devise and bequeath to all my sons named in this Will all my clothing and personal jewellery which must be divided in equal shares amongst them.

I direct that my executors should sell my stock-in-trade as well as all my freehold lands which are not mentioned in this Will to pay my funeral expenses and debts.

I hereby appoint my sister Ransolina Patience Cromanty my residuary legatee. 10

IN WITNESS WHEREOF I have hereunto set my hand this 30th day of May One thousand nine hundred and eight.

(Sgd) J.W.Sawyerr.

Signed and acknowledged by the above Williamson Sawyerr as his Will in the presence of us present at the same time who in his presence and in the presence of each other attest and subscribed our names as witnesses hereto. 20

A. Geo. Peters
E.S. George
R. S. Williams
B.K. Lawson

No.24/1805/18. This instrument was delivered to me for registration by Silvanus Jonathan Morgan Clerk to Claude Emile Wright Barrister-at-law residing at Gloucester Street, Freetown this 11th day of July A.D. 1918 at 2.6 o'clock in the afternoon. 30

(Sgd) F.Bucknor,
Deputy Registrar General
for the Colony of Sierra Leone.

No. 262/201513/65 I hereby certify that this is a true and correct copy of a registered Will

from the Registrar General's Office that is to say from Volume 10 Page 358 of the Records Books of Wills made in pursuance of the General Registration Act, and that the same is now under my custody among other registers.

Exhibits

K.1.

Probate of
Jacob W. Sawyerr

15th August 1916
(continued)

Dated this 17th day of December 1965.

(sgd) I.P. Carlton Danner,
for Registration Officer
Sierra Leone

10

Copies by: J.F. Smith
Checked by: E. Marke

L.1. INDENTURE, RANSOLINA P. CROMANTY
TO JOSEPH C. METZGER

L.1.

Indenture

Sierra Leone
Postage
Revenue 2/-

Sierra Leone
Postage
Revenue 1/-

Ransolina P.
Cromanty to
Joseph C. Metzger

Ransolina P. Cromanty

16th November
1932

20

THIS INDENTURE made the 16th day of November in the year of Our Lord One thousand nine hundred and thirty-two Between Ransolina Patience Cromanty of Crook Street, Freetown in the Colony of Sierra Leone Trader Executor and Trustee and Residuary Legatee of the Will of Jacob Williamson Sawyerr deceased also known and called by Jacob William Sawyerr (hereinafter referred to as the Trustee) of the one part And Joseph Christopher Metzger of Mercer Street in Freetown aforesaid Civil Servant (hereinafter referred to as the Purchaser) of the other part Whereas Jacob Williamson Sawyerr late of Freetown aforesaid and of Ussher Town Accra in the Gold Coast Colony deceased being at the date of his Will and thenceforth until his decease seised or entitled to the freehold and hereditaments hereinafter expressed to be hereby granted for an estate of inheritance in

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Exhibits

L.1.

Indenture

Ransolina P.
Cromanty to
Joseph C. Metzger16th November
1932 (continued)

fee simple duly made his Will dated the 30th day of May 1908 and thereby after certain specific devises and dispositions not affecting the said hereditaments and premises gave and devised all the residue of his real estate and hereditaments unto and to the use of the said Ransolina Patience Cromanty her heirs and assigns And Whereas the said Testator died on the 15th day of August 1916 without having revoked or altered his said Will which was duly registered on the 11th day of July, 1918 in the office of the Registrar General of the Colony of Sierra Leone aforesaid And Whereas the said Jacob Williamson Sawyerr thereby before his death agreed with the said Joseph Christopher Metzger for the sale to him of the fee simple in possession of the hereditaments hereinafter expressed to be hereby granted for the sum of Sixty-five pounds sterling (£65. 0. 0.) but the said purchase money was not paid by the said Joseph Christopher Metzger nor was any Conveyance of the said premises made by the said Jacob Williamson Sawyerr to the said Joseph Christopher Metzger in pursuance of such agreement And Whereas the said Joseph Christopher Metzger has requested the said Ransolina Patience Cromanty to execute the Conveyance of the said premises to him the said Joseph Christopher Metzger in pursuance of such agreement as aforesaid which she has consented to do in manner hereinafter appearing Now This Indenture Witnesseth that for effectuating such sale as aforesaid and in consideration of the sum of Sixty-five pounds sterling before the execution of these presents paid by the said Joseph Christopher Metzger to the said Ransolina Patience Cromanty as Executor as aforesaid (the receipt whereof the said Ransolina Patience Cromanty as such Devisee in Trustas aforesaid doth hereby acknowledge) She the said Ransolina Patience Cromanty doth hereby grant unto the said Joseph Christopher Metzger his heirs and assigns ALL THAT PIECE OR PARCEL of land situate lying and being at Mercer Street in

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Freetown aforesaid bounded on the North by the property of the said Jacob Williamson Sawyerr deceased 67 feet on the East by properties of Columbus Leacock and Hooke and Mrs. T.B. Macauley respectively 65 feet on the south by property of the said Mrs. T.B.Macauley 66 feet and on the West by Mercer Street aforesaid 49 feet which hereditaments for greater clearness and so as not to restrict or enlarge the description hereinbefore contained are delineated on the plan hereon and are thereon edged Pink together with all rights easements fixtures advantages and appurtenances thereunto belonging And All The Estate right title interest claim and demand whatsoever of the Trustee into and upon the said premises To have and to Hold the same Unto and To the Use of the Purchaser his heirs and assigns forever And the said Trustee doth hereby for herself her heirs executors and Administrators Covenant with the Purchaser his heirs and assigns that she hath not at any time heretofore done or knowingly omitted or suffered or been part or privy to anything whereby or by means whereof the said land and hereditaments hereinbefore expressed to be hereby granted or any of them or any part thereof are is or may be impeached incumbered or affected in any manner whatsoever or whereby she the said Trustee is in anywise prevented from granting the same premises or any of them or any part thereof in manner aforesaid In Witness whereof the said Ransolina Patience Cromanty as Trustees doth hereunto set her hand and seal the day and year first above written

Ransolina P. Cromanty (L.S.)

Signed sealed and delivered
by the above named Ransolina
Patience Cromanty in the
presence of :-

J.N.P.Nicol of Magazine Cut Freetown
Retired Civil Servant.

G.C.Sawyerr of Crook Street School
Teacher.

Exhibits

L.1.

Indenture

Ransolina P.
Cromanty to
Joseph C.Metzger

16th November
1932 (continued)

Exhibits

L.1.

Indenture

Ransolina P.
Cromanty to
Joseph C.Metzger

16th November
1932 (continued)

£65.0.0. Received before the execution of these presents from Joseph Christopher Metzger within named the sum of Sixty-five pounds sterling being the consideration money within mentioned to be paid by him to me.

Ransolina P. Cromanty

Witnesses:- J.N.P.Nicol
G.C.Sawyers

No.160/14138/37 This Instrument was proved by the testimony of Joshua Nicholson Philip Nicol within named to be the act and deed of Ransolina Patience Cromanty within named before me this 8th day of June A.D.1937 at 8.30 o'clock in the forenoon. 10

J.C.Johnson
Deputy Registrar General for
the Colony of Sierra Leone.

No. 261/201512/65 I hereby certify that this is a true and correct copy of a registered Conveyance from the Registrar General's Office that is to say from Volume 130 Page 106 of the Record Books of Conveyances made in pursuance of the General Registration Act, and that the same is now under my custody among other registers. 20

Dated this 17th day of December 1965

I.P.Carlton-Danner
for Registration Officer

Copied by: J.S.Smith
Checked by: E.Slowe 30

M.1. INDENTURE, RANSOLINA P. CROMANTY
TO FATOLA C. WALKER AND ANOTHER

Exhibits

M.1.

POSTAGE & REVENUE STAMP 1/-

Indenture

Ransolina P.
 Cromanty to
 Fatola C. Walker
 and another

 6th October 1953

THIS INDENTURE made the 6th day of October
 in the year of Our Lord One thousand nine
 hundred and fifty-three BETWEEN Ransolina
 Patience Cromanty of 14 Crook Street, Freetown
 10 in the Colony of Sierra Leone Widow (herein-
 after called the Donor which expression it is
 intended where the context so admits include
 her heirs executors administrators and assigns)
 of the one part Fatola Christiana Walker of
 17 Mammy Yoko Street in Freetown aforesaid
 Taiwo Victoria Edwards of 24 Pownall Street in
 Freetown aforesaid (hereinafter called the
 Donees which expression it is intended where
 20 the context so admits include their heirs
 executors administrators and assigns) of the
 other part WHEREAS the Donor is seised of and
 otherwise well and sufficiently entitled to the
 property hereby conveyed for an estate in fee
 simple in possession free from incumbrances
 having been in sole continuous and undisturbed
 possession of the said property for a period of
 over 36 years AND WHEREAS the Donor is desirous
 of making provision for the betterment and
 advancement in life of the Donees her nieces
 30 and has agreed with the Donees to convey the
 said property to them NOW THIS INDENTURE
 WITNESSETH that in pursuance of the premises
 and in consideration of the love and affection
 which the Donor hath and beareth towards the
 Donees her nieces and for divers other reasons
 and in further consideration of the sum of £2
 (two pounds) sterling paid by the Donees to
 the Donor before the execution of these
 40 presents (the receipt of which sum the Donor
 hereby acknowledges) the Donor as beneficial
 owner hereby conveys unto the Donees ALL THAT
 piece or parcel of land situate lying and being
 at Fourah Bay Road in Freetown aforesaid and
 bounded on the North by Fourah Bay Road afore-
 said 53' (Fifty-three feet) on the South by

Exhibits

M.1.

Indenture

Ransolina P.
Cromanty to
Fatola C.Walker
and another

6th October 1953
(continued)

property now or formerly in the possession of occupation of Joe Metzger 67' (Sixty-seven feet) on the East by property now or formerly in the possession or occupation of Austin Bowen deceased 78' (seventy eight feet) and on the West by Mercer Street 66' (sixty six feet) and delineated on the plan drawn and attached to these presents and thereon verged RED or howsoever otherwise the same may be bounded known described or distinguished together with the buildings erected thereon TO HOLD the same Unto and to the use of the Donees their heirs and assigns in fee simple

10

IN WITNESS whereof the within named Donor hath hereunto set her hand and seal the day and year first above written

Ransolina P. Cromanty

Signed sealed and delivered by the within named Donor Ransolina Patience Cromanty in the presence of:-

20

Rowland Tokumboh Nylander
Draughtsman and Surveyor,
Survey and Lands Dept.
New England.
6/10/53.

Samuel Jonathan Cole,
17, Jones Street,
Freetown.
Solicitor's Clerk.

No.15/30764/54 This Instrument was proved by the Testimony of Samuel Jonathan Cole within named to be the act and deed of Ransolina Patience Cromanty before me this 13th day of March, 1954 at 10.50 o'clock in the forenoon.

30

Z.C.L.Richards,
Ag. Deputy Registrar General for
the Colony of Sierra Leone.

Certified true copy
Z.C.L.Richards,
Ag. Deputy Registrar General.

No.263/201514/65 I hereby certify that this is a true and correct copy of a registered Voluntary Conveyance from the Registrar General's Office that is to say from Volume 39 Page 15 of the Record Books of Voluntary Conveyances made in pursuance of the General Registration Act and that the same is now under my custody among other registers.

Exhibits

M.1.

Indenture

Ransolina P.
Cromanty to
Fatola C.Walker
and another

10 Dated this 17th day of December, 1965.

(sgd) E.P.Carlton Dammer,
for Registration Officer,
Sierra Leone.

6th October 1953
(continued)

Copied by: J.A.Smith
Checked by: E.Marke

A. PROBATE OF JANE ALICE SMITH

A.

In the Supreme Court of the Colony of Sierra Leone

Probate of Jane Alice Smith

In the Estate of

27th February 1958

20 Jane Alice Smith (deceased)

30 BE IT KNOWN that on the 27th day of February A.D.1958 the last Will and Testament (a copy of which is hereunto annexed) of Jane Alice Smith late of 8, Easton Street, Freetown in the Colony of Sierra Leone who died on the 24th day of December, 1957 was proved and registered in the Registry attached to the Supreme Court of the Colony aforesaid and that administration of all the estate which by law devolves on and vests in the personal representatives of the said deceased was granted by the aforesaid Court to Ernest Onesimus Smith and Jacob Williamson Sawyerr the two Executors named in the said Will they having been first sworn well and faithfully to administer the same according to law and to exhibit a true and perfect inventory of the said estate and

Exhibits

A.

Probate of Jane
Alice Smith

27th February
1958 (continued)

render a just and true account thereof
whenever required by law so to do.

(sgd) ?
Master and Registrar

Estate sworn under Le.1,134 (Personalty
£432.1.5. and Realty £700) and that the
Testatrix died on the 24th day of December
1957.

(sgd) ?
Master and Registrar

10

Receive Original Probate from the Office of
the Master and Registrar this 1st day of
March, 1958.

(sgd) ?

This is the Last Will and TESTAMENT of me JANE
ALICE SMITH of 8 Easton Street, Freetown in
the Colony of Sierra Leone, Widow. I hereby
revoke all former Wills Codicils and other
testamentary dispositions heretofore made by
me and declare this to be my Last Will and
Testament.

20

2. I here NOMINATE CONSTITUTE and APPOINT my
son ERNEST ONESIMUS SMITH and my cousin JACOB
WILLIAM SAWYERR of Malta Street, Tailor both
of Freetown aforesaid to be the Executors and
Trustees of this my Will.

3. I GIVE AND BEQUEATH to my daughter Mary
Metzger (nee Smith) all my Trinkets and wear-
ing apparel for her sole use and benefit.

4. I GIVE AND BEQUEATH from all or any
monies that may be found in my name in any of
the local Banks after payment of my funeral
and testamentary expenses and just debts (if
any) to the two children of my late daughter

30

Modu Campbell the sum of Twenty pounds sterling each for their sole use and benefits and the balance remaining I give to all my children share and share alike.

Exhibits

A.

Probate of Jane
Alice Smith

27th February
1958 (continued)

5. I give to each of my said Executors the sum of Five pounds sterling for the trouble they will have in executing the trusts of this my Will.
- 10 6. I DEVISE my property situate at 8 Easton Street aforesaid known as my dwelling house to my said son Ernest Onesimus Smith absolutely and forever but I direct that my said daughter Mary Metzger alone should be permitted to reside in the said house until her death.
7. I DEVISE my property situate at Lucas Street in Freetown aforesaid to my two sons Joseph Allen Smith and Edgar Oluwole Smith their heirs and assigns as tenants-in-common.
- 20 8. I DEVISE my property situate at Crook Street in Freetown aforesaid to my said daughter Mary Metzger absolutely and forever
9. I DEVISE my Farm land consisting of about Five Town lots situate at Mount Aureol Terrace to all my male children each to have one town lot.
- 30 10. I DEVISE my newly built house situate at Lucas Street aforesaid to my said son Ernest IN TRUST for my son Alake Smith the rent of which should be used by the Trustees for the maintenance of the said Alake Smith and after his death I DEVISE the same to all my said children as tenants-in-common.
11. I DEVISE my empty lot of land situate on the Western side of Lucas Street aforesaid to my two sons Joseph Allen Smith and Edgar Oluwole Smith their heirs and assigns as tenants-in-common.

Exhibits

A.

Probate of Jane
Alice Smith

27th February
1958 (continued)

12. I DEVISE my share of arrears of rent due me during my life-time in the property situate at Fourah Bay Road in Freetown aforesaid now being used as Saint Philips Church Parsonage to all my male children mentioned in this my Will.

13. I GIVE AND DEVISE AND BEQUEATH the rest and residue of my estate (real and personal) not herein devised by this my Will to all my male children share and share alike And I direct that any benefit which under this my Will may become vested in any female herein or hereafter to be born, married or to become married shall be for her sole and separate estate free from the debts control engagements interference or liabilities of any husband.

10

14. IN WITNESS WHEREOF I the said JANE ALICE SMITH have to this my Last Will and Testament set my hand this 11th day of December in the year of Our Lord One thousand nine hundred and fifty seven.

20

Jane Alice Smith Her Mark

Signed and acknowledged by the Testatrix JANE ALICE SMITH as and for her last Will and Testament in the presence of us present at the same time who at her request in her presence and in the presence of each other have hereunto subscribed our names as witnesses. The foregoing Will having been first read over and explained to the said JANE ALICE SMITH who seemed perfectly to understand the same before making her mark thereto as hereinabove appears she being ill and unable to write

30

(sgd) ?
21, Mountain Cut,
Freetown, Writing Clerk.

(Sgd) Moses F. Davies
15, Easton Street.

No.3/035896/58

Exhibits

This instrument was proved by the Testimony of Moses Frank Davies within named to be the Act and Deed of Jane Alice Smith before me this 11th day of February, 1958 at 9.40 o'clock in the forenoon.

A.

Probate of Jane Alice Smith

27th February 1958 (continued)

(sgd) C.W.
Ag. Deputy Registrar General
Colony of Sierra Leone.

10

This instrument is registered as No. 3 at Page 111 in Volume 23 in the books of Wills in the Office of the Registrar-General, Freetown.

(sgd) C.W.
Ag. Deputy Registrar General.

C.1. ORDER FOR CONDITJIONAL LEAVE IN
S.L.A.C. (CIV.) 14/61

C.1.

20

SLAC (CIV.)14/61
IN THE SIERRA LEONE COURT OF APPEAL

Order for Conditional Leave in S.L.A.C. (Civ.)14/61.

BETWEEN: GEORGIANA L. ROSE & ORS.

6th April 1962

Executors of the Will of Ransolina Patience Cromanty (deceased)

Appellants

and

J.W. Sawyerr & Ors Respondents

30

BEFORE MR. JUSTICE S.B.Jones, Ag.C.J.
FIRDAY THE 6TH DAY OF APRIL, 1962.

UPON MOTION this day made to the Court UPON READING the affidavit of the Appellants filed herein in support of their application and UPON READING the affidavit of Joseph Allen Smith filed in opposition herein and

Exhibits

C.1.

Order for
Conditional
Leave in S.L.A.G.
(Civ.) 14/61.

6th April 1962
(continued)

UPON HEARING what was argued by Counsel on both sides IT IS ORDERED as follows :-

- (a) Application for leave to appeal to Her Majesty in Council is granted.
- (b) Appellants to provide good and sufficient security for costs in the sum of £500 within three months of the date hereof for the due prosecution of the appeal as is provided under Section 4 of P.N.No.79 of 1961. 10
- (c) Appellants shall take the necessary steps within three months of the date hereof to procure and dispatch the records to England.

IT IS FURTHER ORDERED that leave for the Appellant to prosecute their appeal in forma pauperis is refused.

By the Court

20

(sgd) Percy R. Davies

Ag. Registrar.

D.

D. LETTER, E.J. McCORMACK TO REGISTRAR
SUPREME COURT

Letter, E.J.
McCormack to
Registrar,
Supreme Court

19th May 1962

E.J. McCormack 11, Regent Road,
Freetown,
Sierra Leone.

19th May, 1962.

Dear Sir,

30

SLAC (Civ.) 14/62
Georgiana L. Rose & Ors. Exors. of
the Will of R.P.Cromanty (deceased
and Appellants
J.W. Sawyerr & Ors. Respondents

I shall be grateful if you will prepare for dispatch to England the records of the

above appeal including the following:-

Exhibits

- (a) Judge's Notes of arguments at the hearing of the appeal.
- (b) Judgment of the Court of Appeal.
- (c) Certificate of the Order of the Court of Appeal.
- 10 (d) Application for leave to appeal to Her Majesty in Council and affidavit in support.
- (e) Judge's notes at the hearing of same.
- (f) Order granting conditional leave to appeal to Her Majesty in Council herein.

D.
 Letter, E.J. McCormack to Registrar, Supreme Court
 19th May 1962
 (continued)

2. The cost of record and of the transmission to England will be bourne by my clients.

Yours faithfully,
 (sgd) E.J.McCormack.

20 The Master and Registrar,
 Supreme Court,
 Law Courts Building,
 Freetown.

C.2. BOND, S.L.A.C.(Civ.) 14/61.
 SLAC (CIV.)14/61
 IN THE SIERRA LEONE COURT OF APPEAL

C.2.

Bond

BETWEEN: GEORGIANA L. ROSE & ORS AS EXECUTORS
 OF THE WILL OF RANSOLINA P. CROMANTY
 (DECEASED) Appellants

S.L.A.C.
(Civ.)14/61

5th July
 1962

and

J.W.SAWYERR & ORS. Respondents

30 KNOW ALL MEN by these presents, that we
 Georgiana Lucretia Rose of No. 14, Crook Street,

Exhibits

C.2.

Bond

S.L.A.C.
(Civ) 14/615th July 1962
(continued)

Freetown, Widow Albert Onesimus Walker of No. 17, Mammy Yoko Street, Freetown Retired Civil Servant Crispin Kenneth Edwards of No. 24, Pownall Street, Freetown, Businessman and Boisy Peacock of No.17, Mammy Yoko Street, Freetown, Clerk are jointly and severally held and firmly bound to the Respondents herein J.W. Sawyerr & Ors. in the sum of FIVE HUNDRED POUNDS of Lawful money to be paid to the said J.W.SAWYERR & ORS. the Respondents herein, their executors administrators and assigns for which payment well and truly to be made we bind ourselves and each of us for himself in the whole our and every of our heirs executors and administrators firmly by these presents.

10

Sealed with our seals.

Dated the 5th day of July, 1962.

WHERE a suit or matter is now depending in the Court at Freetown wherein the above-named Lucretia Goergiana Rose and Others are Appellants and the said J.W. Sawyerr & Ors. are Respondents AND WHEREAS a judgment was given by the Court therein on the 9th day of March, 1962 for the said Respondents and the said Georgiana Lucretia Rose and others intended to appeal to Her Majesty in Privy Council from the said judgment AND WHEREAS it is by law provided that the party appealing shall give security to the Respondents for the performance of the said appeal and for the payment of any costs which may be ordered to be paid by the Appellants AND WHEREAS the above-named Boisy Peacock at the request of the said Georgiana Lucretia Rose and Others has agreed to enter into this obligation for the purpose aforesaid

20

30

NOW THE CONDITION of this obligation is such that if the said Georgiana Lucretia Rose and others shall duly prosecute the appeal and

if the above-bounden Boisy Peacock or any of them shall pay any costs which may be ordered to be paid by the Appellants this obligations shall be void otherwise remain in full force.

Exhibits

C.2.

Bond

{sgd} Georgiana Rose (L.S.)
{sgd} A. Ones Walker (L.S.)
{Sgd} Boisy Peacock (L.S.)
{Sgd} Crispin K. Edwards (L.S.)

S.L.A.C.
(Civ) 14/61

5th July 1962
(continued)

10

Signed sealed and delivered by the within named Georgiana Lucretia Rose, Albert Onesimus Walker, Crispin Kenneth Edwards and Boisy Peacock in the presence of :-

Percy R. DAVIES,
A Commissioner for Oaths.

E. LETTER, E.J. McCORMACK TO REGISTRAR, SUPREME COURT.

E.

20

E.J.McCormack 11, Regent Road,
Freetown,
Sierra Leone.
27th August, 1962.

Letter, E.J. McCormack to Registrar, Supreme Court

27th August 1962

SLAC (Civ.) 14/62
Georgiana L. Rose & Ors. Exors
of the Will of R.P.Cromanty
(deceased) Appellants

and

30

J.W. Sawyerr & Ors. Respondents

I refer to my letter to you dated the 19th May, 1962 requesting copies of the records of appeal in the above matter for despatch to England, and to ask what is the present position please?

2. I shall require a certificate from you stating the date when the said records are so supplied.

(Sgd) E.J.McCormack
The Master and Registrar,
Supreme Court, Freetown.

Exhibits

F. LETTER, E.J. McCORMACK TO REGISTRAR, SUPREME COURT

F.

Letter, E.J. McCormack to Registrar, Supreme Court

A.J. McCormack 11, Regent Road, Freetown, Sierra Leone.

14th January, 1963

14th January 1963

Dear Sir,

SLAC. (Civ.) 14/62
Georgiana Rose & Ors. Exors. of the Will of R.P.Cromanty (deceased)
Appellants

10

and

J.W. Sawyerr & Ors Respondents

I have to refer to my letter to you dated the 27th August, 1962 and to previous letters requesting copies of the record of appeal in the above matter for dispatch to England, and to ask if circumstances now permit of a reply thereto.

20

2. I shall be much obliged if you will inform me of the cost of the records (if now ready).

Yours faithfully,

(sgd) E.J. McCormack

G.

G. LETTER, E.J. McCORMACK TO REGISTRAR, SUPREME COURT

Letter, E.J. McCormack to Registrar, Supreme Court

E.J. McCormack 11, Regent Road, Freetown, Sierra Leone

30

3rd May 1963

3rd May 1963

Dear Sir,

SLCA (Civ.) 14/62
 Georgiana Rose & Ors. Exors of the
 Will of R.P. Cromanty (deceased)
 Appellants
 and
 J. W. Savyerr & Ors. Respondents

Exhibits

G.

Letter, E.J.
 McCormack to
 Registrar,
 Supreme Court

3rd May 1963
 (continued)

10 Pursuant to the Order made by Mr. Justice
 S.B. Jones on the 6th day of April, 1962 in
 respect of the above matter I requested you by
 letter dated 19th May, 1962 to prepare for
 dispatch to England the records of the above
 appeal including certain other documents.

2. Despite several reminders thereto no
 action has up to date been taken by you in
 that regard.

20 3. On the 27th August, 1962 I wrote to you
 inter alia that I shall require a certificate
 from you stating the date when the said records
 are so supplied.

4. On the 15th January, 1963 I wrote drawing
 your attention to my previous correspondence on
 the above matter, and requesting a reply. Need-
 less to say that to none of my letters have I
 been favoured with the courtesy of a reply.

5. I shall be much obliged if you will please
 let me know what is the present position as
 regards this matter.

30 6. Please treat this matter as URGENT.

Yours faithfully,

(sgd) E. J. McCormack.

Exhibits

H. LETTER, REGISTRAR SUPREME COURT TO
E.J. McCORMACK

H.

Letter, Registrar
Supreme Court to
E.J. McCormack

9th May 1963

J.2/63

Master's Office,
Supreme Court.

9th May, 1963.

Sir,

SLAC (Civ.) 14/62
Georgiana Rose & Ors.
Exors. of the Will of
R.P. Cromanty (deceased) Appellants

10

and

J. W. Sawyerr & Ors. Respondents

I have to refer to previous correspondence
on the above ending with your letter dated 3rd
May, 1963 and to say that the record in the
above case is ready and will be supplied on
payment of the sum of three pounds three pence.

20

I am, Sir,

Your Obedient Servant,

(sgd) A. Nithianandan,

Master and Registrar.

E.J. McCormack Esq.,
11, Regent Road,
Freetown.

IN THE PRIVY COUNCIL

No. 33 of 1966

ON APPEAL FROM THE COURT OF APPEAL
FOR SIERRA LEONE

B E T W E E N :-

JOSEPH ALLEN SMITH (Plaintiff)

Appellant

- and -

1. FATULA CHRISTIANA WALKER
2. TAIWO VICTORIA EDWARDS
(Defendants)

Respondents

RECORD OF PROCEEDINGS

T.L. WILSON & CO.,
6, Westminster Palace Gardens,
Artillery Row, S.W.1.
Solicitors for the
Appellant.

CREE, GODFREY & WOOD;
13, Grays Inn Square,
London, W.C.1.
Solicitors for the
Respondents.