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No. 5067/1951
UNIVERSITY OF LONDON
WEST
10 FEB 1954
INSTITUTE OF ADVANCED
LEGAL STUDIES

In the Privy Council.

ON APPEAL

FROM THE COURT OF APPEAL OF THE HIGH COURT OF THE
COLONY OF SINGAPORE, ISLAND OF SINGAPORE.

IN THE MATTER of the ESTATE of Sir MANASSEH MEYER
deceased

and

IN THE MATTER of the TRUSTS of his WILL dated 12th October
1926.

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BETWEEN

ISAAC MANASSEH MEYER (Second Defendant) . *Appellant*

AND

REBECCA MEYER and STANLEY ABBETT (Plaintiffs)
ISAAC BROOKE ABBETT (Third Defendant) and
THE HONGKONG SHANGHAI BANK (MALAYA)
TRUSTEE LTD. the Legal Personal Representatives of
Reuben Manasseh Meyer deceased (First Defendant) . *Respondents.*

Case

20 for the Respondents ISAAC BROOKE ABBETT, STANLEY ABBETT and THE
HONGKONG SHANGHAI BANK (MALAYA) TRUSTEE LTD.

RECORD.

1. This is an appeal from a judgment of the Court of Appeal of the High Court of Singapore (Island of Singapore) dated the 18th September 1950 dismissing the Appellants' appeal from a judgment of the Chief Justice dated the 2nd June 1950. Leave to appeal to Her Majesty in her Privy Council was granted to the Appellant by an Order of the said Court of Appeal dated the 16th March 1951.

2. The question for consideration in this appeal is whether the residuary legatees under the Will of Sir Manasseh Meyer (hereinafter referred to as "the Testator") are or are not to be debited with interest upon any property or assets forming part of the estate of the Testator

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received by them on account of their share and interest therein subsequent to an agreement for compromise dated the 18th July 1947 hereinafter mentioned to which such residuary legatees or their legal personal representatives were parties.

Document 31,
p. 122.

3. The Testator died on the 1st July 1930 and his Will dated 12th October 1926 together with a Codicil thereto dated 31st May 1927 was duly proved in Singapore by his sons Jacob Manasseh Meyer (hereinafter referred to as "Jacob") and Reuben Manasseh Meyer (hereinafter referred to as "Reuben") two of the executors therein named.

4. The Testator by his Will bequeathed certain annuities and pecuniary legacies and directed funds to be set aside for each of his grandchildren and for his daughter Mozelle and subject thereto by Clause 10 thereof directed his trustees to stand possessed of his residuary estate upon trust for his sons the Appellant Jacob and Reuben in equal shares. 10

5. Jacob died on the 27th December 1934 intestate and the Respondents Rebecca Meyer and Stanley Abbett are his administrators. Reuben died on the 16th April 1951 and these Respondents are his legal personal representatives. The Respondent Isaac Brooke Abbett was appointed a trustee of the Will of the Testator on the 7th December 1934 and is at present the sole trustee of such Will. 20

6. The Testator left a substantial estate situate in the Colony of Singapore and elsewhere. The administration thereof has been prolonged and complicated and it was the practice in the past for the residuary legatees to be provided with such moneys as they required out of the estate of the Testator and be debited therewith in the estate accounts. It was a matter of dispute between the residuary legatees whether interest should be debited or not in the estate accounts upon the sums paid to the residuary legatees on account of their share.

7. In the year 1946 Jacob's administrators commenced proceedings (hereinafter referred to as "the administration proceedings") by way of Originating Summons in the High Court of the Colony of Singapore in the matter of the estate of the Testator and of the trusts of his Will against Reuben the Appellant and the Respondent Isaac Brooke Abbett asking for administration of the Testator's estate by the Court. 30

Document 3,
pp. 6-20.

8. The administration proceedings were compromised in an agreement for compromise dated the 18th July 1947 made between the Appellant of the first part Reuben of the second part Jacob's administrators of the third part and the Respondent Isaac Brooke Abbett of the fourth part.

9. The material provisions of the said agreement for the purposes of this appeal are as follows:— 40

" (Clause 2) Isaac will agree to the sale of the property set out in " the First and Second Parts of the Second Schedule hereto :
" Isaac, Jacob's administrators and Reuben will each be entitled
" in that order if they so desire to select one of the said properties

“ for himself or themselves as the case may be. Such selection
 “ by any party shall be endorsed in writing and signed by the party
 “ or parties so selecting on this Agreement at the time of execution
 “ hereof. Each party making any such selection shall be debited
 “ with the value of the said property as mentioned in the said
 “ Schedule, such value being inserted in the said Schedule for this
 “ purpose only and not so as to affect or restrict the reserve price
 “ to be put thereon in case of a sale by public auction. Any such
 “ selection must be made so as not to interfere with the sale of
 “ adjoining properties.”

“ (Clause 14) In each half-yearly account of the estate, calcula-
 “ tions have been made by the accountants for interest on
 “ beneficiaries’ drawings and the principle upon which such calcula-
 “ tions have been made is agreed to by all the parties and is as
 “ follows. The beneficiary who has drawn the least is not debited
 “ with any interest but the other two beneficiaries who are for the
 “ time being overdrawn as compared with the beneficiary who has
 “ drawn least are debited with interest on such over-drawings at
 “ the Bank rate of interest.”

20 The Second Schedule to the said Agreement contained a list of
 properties ranging in value from \$35,000 to \$3,000,000. The property
 valued at \$3,000,000 was known as Meyer Chambers and was selected
 by the Appellant under the provisions of Clause 2 of the Agreement.

10. By an Order of the Chief Justice made in the administration
 proceedings on the 6th August 1947 the said Agreement of Compromise
 was approved by the Court and it was ordered among other things in
 paragraph 10 (B) thereof that Reuben and the Respondent Isaac Brooke
 Abbett as trustees of the Will of the Testator should convey to the Appellant
 the property known as Meyer Chambers at the agreed price of \$3,000,000
 30 for his own use and benefit his share of the estate of the Testator to be
 debited therewith.

Document 32,
 p. 127.

11. By a Conveyance dated 22nd October 1947 made between
 Reuben and the Respondent Isaac Brooke Abbett of the one part and
 the Appellant of the other part a copy of which is set out in pages 20 to 23
 of the Record it was witnessed that in pursuance of the said Order of the
 6th August 1947 and in consideration of the sum of \$3,000,000 being
 debited against the share of the Appellant in the estate of the Testator
 Reuben and the said Respondent as trustees thereby assigned unto the
 Appellant all the land and premises described in the Schedule thereto
 40 (being Meyer Chambers) to hold the same unto the Appellant for the residue
 then unexpired of the term of 999 years created by the lease therein referred
 to subject to the yearly rent therein mentioned and to the covenants and
 conditions therein contained freed from and no longer subject to the
 trusts of the Will and Codicil of the Testator.

Document 4,
 p. 20.

12. In the administration accounts of the Testator’s estate the
 trustees have since the date of the said Conveyance debited the Appellant
 with interest at $3\frac{1}{2}\%$ (being the Bank rate of interest) on the sum of
 \$3,000,000 the agreed value of Meyer Chambers. On the 21st June 1949

Document 1,
p. 1.

the Appellant took out the Summons in the administration proceedings which gives rise to this appeal asking for an order that no interest was or is chargeable against the Appellant in respect of the agreed value of Meyer Chambers selected by the Appellant as a residuary beneficiary of the estate of the Testator in pursuance of paragraph 2 of the Compromise Agreement dated the 18th July 1947 and confirmed by paragraph 10 (B) of the Order of the Court dated the 6th August 1947.

Document 24,
p. 105.

13. The said Summons came on for hearing before the Chief Justice on the 2nd June 1950 when the trustees sought to justify the charging of interest both on general principles and by virtue of a special contract contained in Clause 14 of the Agreement for Compromise. The Appellant contended that that clause applied only to "overdrawings" made before the Agreement and that the debiting of \$3,000,000 was not an overdraw within the meaning of that clause. 10

14. The Chief Justice in his judgment said as follows :—

" In my opinion the transaction both by the language of the Compromise Agreement and of the Order had the characteristics of a sale and the sum of \$3,000,000 was a drawing against the interest of the second Defendant. Having come to that conclusion I have to consider whether the matter comes within the scope of Clause 14." 20

And later in his judgment :—

" The present question is whether the method set out in Clause 14 is applicable to drawings made after the date of the Compromise Agreement. This clause does not expressly deal with the point but as a matter of construction the clause appears to lay down a method which can be applied to future as well as to past transactions. As the parties were at the time contemplating transactions which must result in increased inequalities in the immediate future one would expect that, if future transactions were to be excluded, the matter would be dealt with specifically. 30

" I consider that the fact that the second Defendant did not walk away with the sum of \$3,000,000 in cash does not prevent this transaction from resulting in a drawing of that amount.

" I consider, therefore, that the action of the first and third Defendants is in accordance with the terms of the Compromise Agreement. The exact figure of 3½% depended in any event on the terms of the contract. It has not, in the circumstances, been necessary to consider whether, in the absence of agreement, the first and third Defendants would have been entitled to charge interest. 40

" The application is dismissed."

Document 28,
p. 113.

15. From the judgment of the Chief Justice the Appellant appealed to the Court of Appeal of the High Court of the Colony of Singapore, Island of Singapore, and after hearing the appeal the Court on the 18th September 1950 gave judgment dismissing the appeal.

16. The judgment of the Court was given by Mr. Justice Evans who in the course of his judgment said as follows :— Document 27,
p. 110.

10 “ It is true that paragraph 14 begins with a reference to the
“ past but the second and important sentence is in the present.
“ It does not refer to accounts from 22nd November 1946 to 18th July
“ 1947. It does not speak of ‘ was not debited ’ and ‘ were not
“ ‘ overdrawn ’ but reads ‘ is not debited ’ and ‘ who are for the
“ ‘ time being overdrawn. ’ There is no reference to any state of
“ account at the conclusion of the intervening period and in my own
“ view it is impossible to read this as other than a principle agreed
“ between the parties by which their accounts are to be kept to
“ arrive at the equality required by the Will.”

17. The Appellant on the 16th March 1951 obtained special leave to appeal from the judgment of the Court of Appeal to Her Majesty in Council. Document 30,
p. 121.

18. In his capacity as trustee of the Will of the Testator the Respondent Isaac Brooke Abbett submits to act as this Board shall direct. These Respondents in their capacity as the legal personal representatives of Reuben humbly submit that the Judgment of the Court of Appeal was right and should be confirmed and that the Appellant’s Appeal therefrom should
20 be dismissed for the following (among other)

REASONS.

- 30 (1) BECAUSE on the true construction of Clause 14 of the Agreement for Compromise the debiting of interest as therein provided is not limited to the period prior to the date thereof but is to continue until the administration of the estate of the Testator is completed.
- (2) BECAUSE on general principles the debiting of interest on partial distributions made before the completion of the administration is necessary in order to insure equality between the residuary legatees under the will of the Testator and there is nothing in the said agreement to exclude such general principles.
- (3) BECAUSE the judgment of the Court of Appeal is right and should be affirmed.

GEOFFREY CROSS.

T. A. C. BURGESS.

In the Privy Council.

ON APPEAL

*from the Court of Appeal of the High Court of
the Colony of Singapore, Island of Singapore.*

IN THE MATTER of the ESTATE of Sir MANASSEH
MEYER, deceased

and

IN THE MATTER of the TRUSTS of his WILL dated
12th October 1926.

BETWEEN

ISAAC MANASSEH MEYER (Second
Defendant) *Appellant*

AND

REBECCA MEYER and STANLEY
ABBETT (Plaintiffs), ISAAC
BROOKE ABBETT (Third
Defendant) and THE HONGKONG
SHANGHAI BANK (MALAYA)
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Representatives of REUBEN
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Case

for the Respondents ISAAC BROOKE ABBETT,
STANLEY ABBETT and THE HONGKONG SHANGHAI
BANK (MALAYA) TRUSTEE LTD.

PEACOCK & GODDARD,
1 Raymond Buildings,
Gray's Inn, W.C.1,
Solicitors for the Respondents.