

IN THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL

No. 33 of 1975

O N A P P E A L
FROM THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

B E T W E E N :

COLLECTOR OF LAND REVENUE, *SINGAPORE*

Appellant
(Respondent)

- and -

PHILIP HOALIM

Respondent
(Appellant)

and CROSS-APPEAL

RECORD OF PROCEEDINGS

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IN THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL

No.33 of 1975

O N A P P E A L
FROM THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE
IN THE LAND ACQUISITION (APPEALS BOARD)
LAND ACQUISITION ACT (CAP.272)

BETWEEN:

Collector of Land Revenue
Singapore

Appellant
(Respondent)

and

Philip Hoalim

Respondent
(Appellant)

and Cross-Appeal

RECORD OF PROCEEDINGS

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IN THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL

ON APPEAL FROM THE COURT OF APPEAL
OF THE REPUBLIC OF SINGAPORE

IN THE LAND ACQUISITION (APPEALS BOARD)
LAND ACQUISITION ACT (CAP.272)

B E T W E E N :-

COLLECTOR OF LAND REVENUE

Appellant
(Respondent)

-- and --

PHILIP HOALIM

Respondent
(Appellant)

and Cross-Appeal

RECORD OF PROCEEDINGS

No. 1

Case Stated

IN THE LAND ACQUISITION (APPEAL BOARD)
LAND ACQUISITION ACT (CAP. 272)

In the Court
of Appeal of
the Republic
of Singapore

No. 1

Case Stated

24th July
1974

Appeal No. A.B.44)
of 1971

Between

PHILIP HOALIM ... Appellant

And

COLLECTOR OF LAND REVENUE
SINGAPORE ... Respondent

CASE STATED UNDER SECTION 30 OF THE LAND
ACQUISITION ACT (CHAPTER 272 OF THE
REVISED EDITION OF THE LAWS) BY THE APPEALS
BOARD CONSTITUTED UNDER THE PROVISIONS OF
SECTION 19(1) OF THE ACT FOR THE OPINION
OF THE COURT OF APPEAL

In the Court
of Appeal of
the Republic
of Singapore

No. 1

Case Stated

24th July
1974

(continued)

1. By Gazette Notification No.2549 dated the 27th day of August 1968 and published in the Government Gazette dated the 30th day of August, 1968 Notice was given by the Collector of Land Revenue ("the Collector") pursuant to the provisions of section 5 of the Land Acquisition Act ("the Act") that Lot 285 Mukim XXIII otherwise known as Pulau Tekong Kechil ("the subject land") was required for a public purpose and pursuant to the said Notification the Collector took proceedings under the provisions of the Act for the acquisition of the subject land.

10

2. Pursuant to the provisions of the Act, the Appellant in writing dated the 16th day of November 1968 made his submissions to the Collector at the Enquiry and the Collector made an Award under his hand pursuant to the provisions of section 10 of the Act and awarded to the owner of the said land, the abovenamed Appellant, the sum of \$67,500/-; a copy of the said Award is annexed hereto marked "Schedule A".

20

3. Pursuant to the provisions of section 23 of the Act the Appellant, being aggrieved by the said Award, appealed to the Appeals Board ("the Board") constituted under the provisions of section 19(1) of the Act and lodged with the Registrar a Notice of Appeal and a Petition of Appeal containing a statement of the grounds of appeal. A copy of the said Petition of Appeal is annexed hereto marked "Schedule B".

30

4. At a sitting of the Board held on the 21st, 22nd and 23rd May, 1974, the said appeal was heard and inter alia the following documents were produced -

(i) Bundle of copy indentures relating to the subject land as under:-

26th April 1860 - Grant by the Secretary of State for India in Council for and on behalf of Her Majesty Victoria, Queen to Angus (pages 1-3)

40

15th March 1878 - Angus to the Sultan of Johore (pages 4 and 5)

7th October 1951 - Administrator of the Sultan of Johore to Hoalim and Liew Kong Kee (pages 6-8)

16th June 1952 - Liew Kong Kee to Ng Cheng Koon ($\frac{1}{2}$ share) (pages 9 and 10)

12th July 1954 - Ng Cheng Koon to Hoalim ($\frac{1}{2}$ share) (pages 11-13)

In the Court
of Appeal of
the Republic
of Singapore

No. 1

(ii) Agreement for Sale of the subject land dated the 25th August, 1951.

(iii) The Search of the subject land made at the Registry of Deeds.

Case Stated
24th July
1974
(continued)

10 5. The questions in issue before the Board were:

(i) Is the market value of the subject land for the purposes of section 33(1)(a) of the Act as at the 30th August, 1968, limited by the provisions contained in the original grant by the said Secretary of State of the property dated the 26th April, 1860 ("the original grant"), and if so to what extent.

20 (ii) If not, what was the market value of the subject land at the said 30th August, 1968.

6. The first of the said two issues raises questions of law relating to the construction and application of the terms of the original grant and the Board accordingly, without proceeding to the determination of the appeal, resolved to state a case on the questions of law involved for the opinion of the Court of Appeal.

7. The relevant provision ("the said provision") in the original grant are as appear therein:-

30 "Subject nevertheless to the conditions hereinafter mentioned that is to say the said Gilbert Angus for himself, his Heirs, Executors, Administrators and Assigns doth hereby covenant and agree to surrender and make over unto the said Secretary of State for India in Council or his Successors in Office the said land and premises should it at any time be required for public purposes, upon a requisition made to him to that effect

40 in writing and upon the payment to him the said Gilbert Angus His Heirs, Executors, Administrators and Assigns by the said Secretary of State for India in Council or his Successors in office of all sum or sums

In the Court
of Appeal of
the Republic
of Singapore

No. 1

Case Stated
24th July
1974
(continued)

of money that the said Gilbert Angus his Heirs Administrators Executors or Assigns may or shall have incurred expended (sic) upon the said land."

8. It is contended on behalf of the Appellant:-

- (i) that the said condition was not a condition, but a contractual obligation in the nature of a covenant for an option to the Secretary of State for India to re-purchase the subject land and as such was void for perpetuity since it went beyond the perpetuity period. 10
- (ii) that the original grant was never registered and is as such inadmissible as evidence of title to the subject land, not only against the Sultan but a fortiori, the Appellant.
- (iii) that assuming the option to re-purchase is not void for perpetuity, the option created merely an equitable, but not a legal, estate, and is not enforceable against the Appellant who is a purchaser for value without notice, actual or constructive of the equitable interest. 20
- (iv) that in any event in view of (ii) of this paragraph, even if the Appellant had notice of the said provision, actual or constructive, he would not be affected by it.

9. It is contended on behalf of the Collector:-

- (i) that the said provision was not merely a covenant but also a condition constituting therefore both a common law condition (imposed by the grantor) entitling the Republic of Singapore as successor to the Crown to resume ownership of the subject land if such condition is broken and a covenant (entered into by the grantee) which could be specifically performed in equity and which therefore confers an equitable right on the grantor; 30
- (ii) that the rule against perpetuities does not apply to legal rights of re-entry for condition broken nor in Singapore does the rule against perpetuities apply to provisions contained in grants by the State or its predecessor the Crown; 40
- (iii) that if on the evidence it is established that the Appellant was a purchaser for value without

- actual notice he nevertheless had constructive notice of the contents of the original grant;
- (iv) that the Republic of Singapore has effectively succeeded to the position of the Crown under the original grant;
- (v) that if as contended by the Collector the terms of the said provision do apply, the price to be paid by the State (as successor to the Crown) on resumption of the subject land pursuant to the terms of the said provision is to be calculated by reference to the sums collectively spent by successive owners on the subject land, the successive owners being for this purpose treated as one continuing owner.

10

10. The questions of law for the opinion of the Court of Appeal are:-

- (i) Is the said provision a covenant creating an interest in land, or is it a condition or is it both, and is the interest, if any, created thereby legal or equitable?
- (ii) Is the interest if any created by the said provision void by reason of the operation of the rule against perpetuities and in particular:
- (a) does the rule apply at all (apart from statutory enactment) to legal rights of re-entry for condition broken;
- (b) does the rule apply to equitable rights to enforce a covenant for a reconveyance against the land owner who is successor in title of the covenantor;
- (c) if either (a) or (b) is answered in the affirmative does the rule apply in Singapore to provisions contained in grants by the Crown or its successor the state?
- (iii) If the said provision constitutes a valid common law condition is the question of notice, actual or constructive, material?
- (iv) On whom is the burden of proof of the existence or absence of actual notice of the said provision ?
- (v) On the assumption that the appellant had no actual notice of the said provision did he nevertheless have constructive notice

40

In the Court
of Appeal of
the Republic
of Singapore

—
No. 1

Case Stated
24th July
1974
(continued)

In the Court
of Appeal of
the Republic
of Singapore

No. 1

Case Stated

24th July

1974

(continued)

thereof? And is the Appellant bound in view of the non-registration of the original grant?

- (vi) In the event that the said provision is binding upon the Appellant in whom are the rights of the Secretary under the original grant now vested and can they be exercised?
- (vii) In the event that the said rights can be exercised how are the words in the said provision -

"all sum or sums of money that the said Gilbert Angus His Heirs Administrators Executors or Assigns may or shall have incurred expended upon the said land (sic)"

to be construed.

Dated this 24th day of July, 1974.

Signed Choor Singh
(Commissioner of Appeals)

Schedule A to
Case Stated

No. 2

Letter,
Appellant to
Respondent
dated 13th
October 1971

No. 2

Letter, Appellant to Respondent
dated 13th October 1971

ORIGINAL

Schedule A to
Case Stated

20

In reply please quote:

L.O.(Q)86/68

Date 13th October, 1971

Sir/Gentlemen,

LAND ACQUISITION ACT (Chapter 272,
1970 Ed.)

Re: Acquisition of Lot 285 Mukim XXXIII

30

I have the honour to forward a copy of my award under Section 10 of the Land Acquisition Act (Chapter 272, 1970 Ed.) in the above acquisition and to offer you the sum of \$67,500.00 being the compensation awarded by me for your share in the above land, the apportionment being as in the attached award.

2. Your attention is invited to Section 23 of the Act which is reproduced overleaf.

3. Please acknowledge receipt of this award on the duplicate attached hereto.

Schedule A to Case Stated

No. 2

I have the honour to be,
Sir/Gentlemen,
Your obedient servant

Letter,
Appellant to Respondent
dated 13th
October 1971

(Signed)

(continued)

Collector of Land Revenue,
Singapore.

10 To: Mr. Philip Hoalim,
No. 3, Malacca Street,
Singapore, 1.

No. 3

No. 3

Copy of Section 23 of the Land
Acquisition Act (Cap. 272)

Copy of
Section 23 of
Land
Acquisition
Act

LAND ACQUISITION ACT (Chapter 272,
1970 Ed.)

Section 23

20 Right of Appeal 23.-- (1) Any person interested, who
is aggrieved by an award made under the
provisions of section 10 of this Act,
may appeal to the Board by -

(a) lodging with the Registrar, within
fourteen days of the date of the
receipt of the award of the
Collector, a written notice of appeal
in quintuplicate; and

30 (b) depositing or authorising the deposit
with the Accountant-General within
fourteen days of the date of the
receipt of the award a sum equivalent
to one-third the amount of the award
or five thousand dollars, whichever
is the less; and

40 (c) lodging with the Registrar, within
fourteen days of the date on which
the grounds of award of the Collector
have been served upon the appellant,
a petition of appeal in quintuplicate
containing a statement of the grounds
of appeal.

In the Court
of Appeal of
the Republic
of Singapore

Schedule A to
Case Stated

No. 3

Copy of
Section 23
of Land
Acquisition
Act
(continued)

(2) On receipt of a notice of appeal, the Registrar shall forthwith forward one copy thereof to the Collector. The Collector shall thereupon lodge with the Registrar his grounds of award and a copy of such grounds shall be served by the Registrar upon the appellant by delivering or tendering such copy to him or sending it to him by registered letter.

(3) The Board may, in its discretion and on such terms as it may see fit, permit any person to proceed with an appeal notwithstanding that the notice of appeal or petition of appeal was not lodged within the time limited therefor by this section, if it be shown to the satisfaction of the Board that such person was prevented from lodging such notice or petition in due time owing to absence from Singapore, sickness or other reasonable cause and that there has been no unreasonable delay on the part of such person.

(4) Save with the consent of the Board and on such terms as the Board may determine, an appellant may not at the hearing of his appeal rely on any grounds of appeal other than the grounds stated in his petition of appeal.

No. 4

Note

No. 4

Note

NOTE

Please note that all title deeds relating to the properties acquired will have to be forwarded to the Land Office before arrangement can be made to pay out the compensation stated in the Collector's award.

2. The title deeds should therefore be forwarded as soon as possible, if you have not already done so.

30

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10

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No. 5
Collector's Award

In the Court
of Appeal of
the Republic
of Singapore

ORIGINAL

L.O.(Q)86/68

Schedule A to
Case Stated

Collector's Award under Section 10 of the Land
Acquisition Act, 1966 (No.41 of 1966)

No. 5

Collector's
Award

13th October
1971

10

1. Name of Project: Development
2. Number and Date of Declaration or Declarations: Notification No. 2549 dated 27.8.68 and published in the Government Gazette Extraordinary No. 84 of 30.8.68.

3. Lot numbers and Title Numbers of the land: Lot Mukim Title
285 XXXIII Grant No.1

4. The true area of the land: Acres Roods Poles
220 0 00

20

5. The compensation which in the opinion of the Collector of Land Revenues should be allowed for the said land: \$67,500.00

6. Apportionment of the said compensation among persons interested: The said amount of compensation is to be paid to Mr. Philip Hoalim, No.3 Malacca Street, Singapore, 1.

LAND OFFICE

30

Date: 13th October, 1971

Collector of Land Revenues
Singapore.

In the Court
of Appeal of
the Republic
of Singapore

No. 6

Schedule B to Case Stated
Appellant's Petition of Appeal

Schedule B to
Case Stated

THE LAND ACQUISITION ACT
(Chapter 272, 1970 Edition)
(Section 23(1)(c))

No. 6

Appellant's
Petition of
Appeal

LAND ACQUISITION (APPEALS BOARD) REGULATIONS
1967 (REGULATION 5)

27th March
1972

PETITION OF APPEAL

The Registrar,
Appeals Board (Land Acquisition),
High Court,
Singapore.

10

1. Whereas I have lodged a Notice of Appeal under the provisions of Section 23(1)(a) of the Land Acquisition Act (Chapter 272, 1970 Edition) against an award by the Collector of Land Revenue in respect of the piece of land acquired by the Government under Gazette Notification No. 2549 dated the 27th day of August 1968.

20

2. AND NOW pursuant to the provisions of Section 23(1)(c) of the said Act I hereby lodge Petition of Appeal and state as follows the particulars required by Regulation 5 of the Land Acquisition (Appeals Board) Regulations, 1967:-

(a) The name and address of the Appellant
Philip Hoalim Esq., 3 Malacca Street,
Singapore.

(b) The date of service of Notice of Appeal
20th of October 1971

30

(c) The serial number of the Appeal
A.B. 44 of 1971

(d) The claim, if any, made pursuant to a
Notice under Section 8 of the Act

The Appellant claims as beneficial and absolute owner of the land acquired, for compensation to the full value thereof as provided by the said Act, which full value

the Appellant states as Dollars One Million Six Hundred and Forty One Thousand Nine Hundred and Twenty (\$1,641,920/-), as to which the Appellant will lead evidence.

In the Court of Appeal of the Republic of Singapore

(e) The Grounds of Appeal

Schedule B to Case Stated

The Grounds of Appeal are:-

No. 6

Appellant's Petition of Appeal

27th March 1972

(continued)

10

(1) That the Collector erred in law in holding that the provision referred to in the Grounds of Award being the provision contained in the Indenture dated the 26th of April 1860 and made between the Secretary of State of India in Council for and on behalf of H.M. Queen Victoria of the one part and Gilbert Angus of the other part (hereinafter referred to as "the material provision") was a condition and in rejecting the Appellant's submission that it was a covenant for or an option to repurchase the land acquired, and as such was void for perpetuity, and in any event was not binding on the Appellant or his successors in title by reason of the Appellant's purchase of the legal estate without notice of the said provision.

20

(2) That even if (which is denied) the Collector was right in construing that the said material provision was a condition, he erred in law in not holding the same to be void for perpetuity,

30

(3) That even if (which is denied) the Collector was right in holding that the said material provision was a valid and enforceable condition, he erred in law in holding that the compensation payable under the said Act and/or the price payable on repurchase was limited to the matters referred to by him. In particular (but without prejudice) to the generality of the foregoing ground) the Collector erred in law that he:-

(a) held that no purchaser was likely to pay appreciably more than he could expect to receive from the Government in the event of the Government resuming the land pursuant to the said material provision or if the Government should decide to acquire the land.

In the Court
of Appeal of
the Republic
of Singapore
—
Schedule B to
Case Stated
No. 6
Appellant's
Petition of
Appeal
27th March
1972
(continued)

- (b) failed to appreciate that when assessing the market value of the land acquired and/or the price which a purchaser would be willing to pay for the same, the following factors should be taken into consideration:-
- (i) That the said material provision in terms purported to provide that it should be enforceable only by the "Secretary of State for India in Council or his successors in office"; 10
 - (ii) That neither the President nor the Government of the Republic of Singapore are successors in office of the "Secretary of State for India in Council".
 - (iii) That accordingly neither the President nor the Government of the Republic of Singapore could legally avail themselves of the said material provisions. 20
 - (iv) That in the prevailing constitutional economic and other circumstances it was unlikely that the successors of the "Secretary of State for India in Council" (if any) would avail themselves of the said material provision.
 - (v) That even if there were any successors of the "Secretary of State for India in Council" and such successors should avail themselves of the said material provision, the terms of re-purchase would in all likelihood be such that any purchaser would be sufficiently compensated for any outlay or any investment made on the land acquired. 30
- (c) (i) held that the said compensation or said purchase price would not include any purchase price paid by the successor or successors in title to the original Grantee. 40
- (ii) failed to call for evidence of and to assess the sums of money

which the original Grantee "his heirs administrators executors and assigns may or shall have incurred expended upon the said land", evidence of which expenditure was and is available, and which the Appellant will lead.

In the Court
of Appeal of
the Republic
of Singapore

Schedule B to
Case Stated

No. 6

Appellant's
Petition of
Appeal

27th March
1972

(continued)

10

(iii) failed to take into consideration the difference between the value of money at the time when such expenditure was incurred, and that at the date of the award.

20

(4) That when the Collector stated in his Grounds of Award and/or concluded that even if the Appellant's submission on the nature of the said material provision were right it would make "little difference to the market value at the material date", the Collector erred in law in that:-

30

(a) On the basis of an assumption that the Appellant's said submissions were right, the Collector was not entitled to take into account a view contrary to that of the Appellant when considering his award;

(b) The Collector erred in principle because there was no evidence at all in support of the Collector's said statement and/or conclusion;

40

(c) The Collector ought to have accepted the evidence in support of the Appellant's said view, namely the evidence that an offer to purchase the land acquired for the sum of Dollars One Million Two Hundred and Fifty Thousand (\$1,250,000/-) had been made in early 1968 by a certain Mr. Ng Yook Lin and that pursuant to such offer the Appellant had on the 24th of June 1968 granted the said Ng Yook Lin an option to purchase the said land for the said price.

(5) That in any event the Collector erred in law in not accepting the only evidence of market value before him namely the said offer by the said Mr. Ng Yook Lin to

In the Court of Appeal of the Republic of Singapore

Schedule B to Case Stated No. 6

Appellant's Petition of Appeal

27th March 1972 (continued)

purchase the said land acquired and the option given by the Appellant to the said Ng Yook Lin to purchase the said land for Dollars One Million Two Hundred and Fifty Thousand (\$1,250,000/-).

(f) The amount of deposit made under the provisions of section 23(1)(b) of the Act and the date and number of the receipt therefor issued by the Accountant-General:-

Dollars Five Thousand (\$5,000/-), the Accountant-General's receipt therefor being numbered A967524.

10

Signed

.....
EUGENE PHOA & CO.
Solicitors for the Appellant.

Dated this 27th day of March, 1972.

N.B. This Petition is to be furnished in QUINTUPLICATE.

Bundle of Indentures

No. 7

Grant by the Secretary of State for India to G. Angus dated 26th April 1860

Bundle of Indentures

20

No. 7

Grant by the Secretary of State for India to G. Angus dated 26th April 1860

This Indenture made the 26th day of April in the year One thousand eight hundred and Sixty between the Secretary of State for India in Council for and on behalf of Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland Her Heirs and Successors of the first part and Gilbert Angus of Singapore Planter of the second part Witnesseth that the said Secretary of State for India in Council on behalf of Her said Majesty, for and in consideration of Company's Rupees One thousand three hundred and twenty which have been paid by the said Gilbert Angus Do in pursuance of Act IX of 1842 and in virtue of all and every right title interest power and authority whatsoever now vested in the said Secretary of State for India in

30

Council, on behalf of Her said Majesty, grant
 bargain sell and release unto the said Gilbert Angus
 his Heirs Executors Administrators and Assigns All
 that Island called and known by the name of Pulo
 Tikong Kitchil situated between Pulo Obin and Pulo
 Tikong Besar whereof the lines of boundary and
 their bearings laid down in the Plan endorsed hereon,
 certified under the hand of the Surveyor General
 estimated to contain an Area of Two hundred and
 10 twenty acres together with the appurtenances To
 Have and To Hold the same unto the said Gilbert
 Angus his Heirs Executors Administrators and Assigns
 forever; Subject nevertheless to the conditions
 hereinafter mentioned that is to say the said
 Gilbert Angus for himself his Heirs Executors
 Administrators and Assigns Doth hereby covenant
 and agree to surrender and made over unto the said
 Secretary of State for India in Council or his
 20 Successors in Office the said Land and premises
 should it at any time be required for public
 purposes, upon a requisition made to him to that
 effect in writing and upon the payment to him the
 said Gilbert Angus His Heirs Executors Administrators
 and Assigns by the said Secretary of State for India
 in Council or his Successors in office of all sum
 or sums of money that the said Gilbert Angus his
 Heirs Administrators Executors or Assigns may or
 shall have incurred expended upon the said Land.
 In Witness whereof the Honourable Henry Mace
 30 Esquire Resident Councillor of Singapore for the
 said Secretary of State for India in Council on
 behalf of Her said Majesty has affixed the Seal
 of his Office and subscribed his signature, and
 the said Gilbert Angus has signed his name and
 affixed his Seal hereto the day and year
 aforesaid.

Signed Sealed and delivered
 in the presence of

Sd. G. Angus

Sd.? Illegible

40

Sd.? Illegible

In the Court
 of Appeal of
 the Republic
 of Singapore

Bundle of
 Indentures

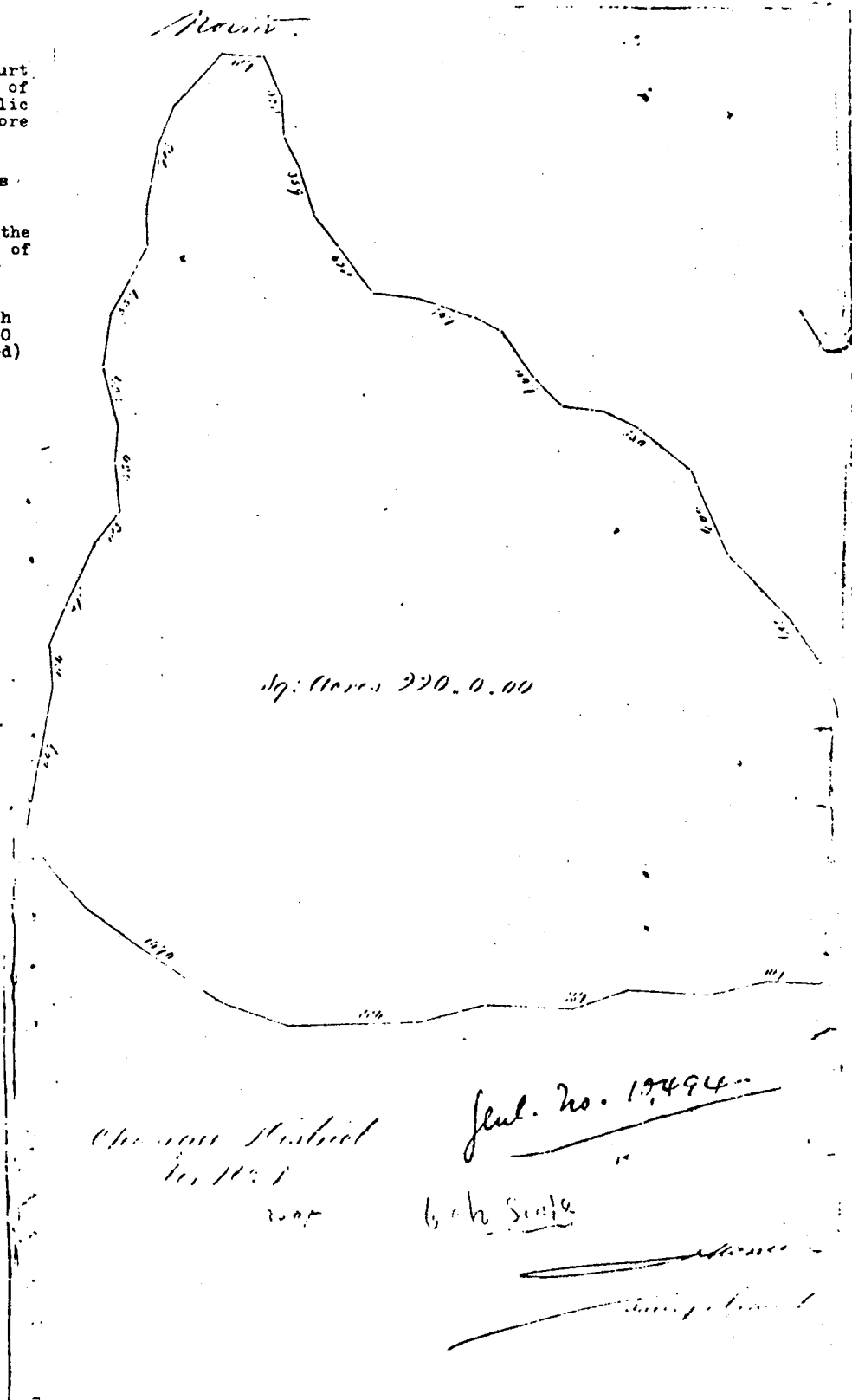
No. 7

Grant by the
 Secretary of
 State for
 India to
 G. Angus
 dated 26th
 April 1860
 (continued)

In the Court
of Appeal of
the Republic
of Singapore

Bundle of
Indentures
No. 7

Grant by the
Secretary of
State for
India to
G. Angus
dated 26th
April 1860
(continued)



Sq. Acres 220.0.00

Charles Stirling
1860

Jent. No. 19494
John Smith

No. 8

Grant, G. Angus to Sultan of Johore,
dated 15th March, 1878.

In the Court
of Appeal of
the Republic
of Singapore

Bundle of
Indentures

No. 8

Grant,
G. Angus to
Sultan of
Johore

15th March
1878

10 This Indenture made the fifteenth day of March
in the year One thousand eight hundred and seventy
eight Between Gilbert Angus of Singapore Auctioneer
(hereinafter called the Vendor) of the one part and
His Highness Aboobakar Maharajah of Johore Knight
Grand Cross of the Most Honourable Order of St.
Michael and St. George and Knight Commander of the
most honourable Order of the Star of India (herein-
after called the Purchaser) of the other part
Witnesseth that in consideration of Dollars Two
thousand (\$2,000) now paid by the Purchaser to the
Vendor by way of purchase money (the receipt whereof
is hereby acknowledged) the Vendor doth hereby grant
unto the said purchaser his heirs executors
administrators and assigns the hereditaments
described in the Schedule hereto together with all
20 rights and things appurtenant or reputed to be
appurtenant thereto and all the estate and interest
of the Vendor therein To hold the same unto and to
the use of the Purchaser his heirs executors
administrators and assigns for ever and the Vendor
doth hereby for himself his heirs executors and
administrators covenant with the Purchaser his
heirs executors administrators and assigns that
notwithstanding anything by him the Vendor done
or knowingly suffered to the contrary the Vendor
30 now hath good right to grant the said hereditaments
in manner aforesaid and that the Purchaser his
heirs executors administrators and assigns shall
quietly possess and enjoy the said hereditaments
(sic) with any interruption and free from incumbrances
from or by the Vendor or any person rightfully
claiming under him and that the Vendor and all
persons rightfully claiming under him will at all
times hereafter at the request and cost of the
said Purchaser his heirs executors administrators
40 and assigns do all such things for further assuring
the said hereditaments to him or them in manner
aforesaid as may be reasonably required.

In witness whereof the said parties to these
presents have hereunto set their hands and seals
the day and year first above written

(The Schedule)

In the Court
of Appeal of
The Republic
of Singapore

Bundle of
Indentures

No. 8

Grant,
G. Angus to
Sultan of
Johore

15th March
1878

(continued)

The Schedule above referred to

All that Island called or known by the name of Pulo Tikong Ketchil situated between Pulo Obin and Pulo Tikong Besar whereof the lines of boundary and their bearings are laid down in the plan endorsed on a certain Indenture dated the 26th day of April 1860 and made between the Secretary of State for India in Council for and on behalf of Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland Her Heirs and Successors of the first part and Gilbert Angus of the second part certified under the hand of the then Surveyor to Government estimated to contain an area of Two hundred and twenty acres (220 acres) together with the appurtenances thereto belonging.

10

Signed Sealed and Delivered
by the abovenamed Gilbert Angus
in the presence of:-

Sd. Alex L. Donaldson
Advocate
S'pore.

Sgd. G. Angus (L.S.)

(L.S.)

20

Signed Sealed and Delivered
by the abovenamed His Highness
Aboobakar Maharajah of Johore
in the presence of

Received on the day of the date of the
above written Indenture of and from the
abovenamed His Highness Aboobakar Maharajah
of Johore the sum of Dollars Two thousand
being the full consideration money above
mentioned to be by him paid to me

\$2,000/-

30

Witness

Sd. Alex L. Donaldson

Sd. G. Angus

Registered on the 5th December, 1905
at 2.05 p.m. under General No. 10494
Title No. Grant No. 1
District: Changee
In accordance with statement presented
in Volume CCLV Page 172 No.42

Sd.

Dy. Registrar of Deeds.

40

Grant, Administrator of Sultan of
Johore to Respondent and Liew Kong Kee
dated 7th October 1951

In the Court
of Appeal of
The Republic
of Singapore

This Indenture is made the 7th day of October
One thousand nine hundred and fifty one (1951)
Between The Honourable Dato Abdullah bin Esa of
No.2 Jalan Gudang Obat, Johore Bahru (hereinafter
called the Vendor) of the one part and Philip Hoalim
of No.3 Malacca Street, Singapore, Advocate and
Solicitor and Liew Kong Kee of No.6A Jalan Pahang,
Johore Bahru, Merchant (hereinafter called the
Purchasers) of the other part

Bundle of
Indentures

No. 9

Grant,
Administrator
of Sultan of
Johore to
Respondent
and Liew Kong
Kee

7th October
1951

Whereas His Highness Sultan Abu Bakar (here-
inafter called "the Testator") was at the date of
his death hereinafter recited seised of the land
and premises described in the Schedule hereto for
an estate in fee simple in possession free from
encumbrances.

And Whereas the Testator died on the 4th day
of June 1895 having duly made his last Will dated
the 14th day of April 1895 whereby he appointed
Dato Jaafar bin Hadji Mohamed to be the Executor
thereof and Probate thereof was granted to the said
Dato Jaafar bin Hadji Mohamed by the Supreme Court
of the Straits Settlements at Singapore on the 14th
day of December 1896 in Probate No.173 of 1896.

And Whereas the said Dato Jaafar bin Hadji
Mohamed died on the 2nd day of July 1919 without
having fully administered the estate of the
Testator.

And Whereas Letters of Administration de
bonis non with the Will of the Testator annexed
were granted to Dato Mustapha bin Jaafar by the
said Supreme Court on the 20th day of October 1922
in Probate No. 285 of 1922.

And Whereas the said Dato Mustapaha bin Jaafar
died on the 5th day of January 1946 leaving part of
the said estate unadministered and Letters of
Administration de bonis non with Will annexed of
the said estate of the Testator were on the 31st
day of December 1948 granted by the Supreme Court
of the Colony of Singapore, Island of Singapore in
Probate No. 880 of 1948 to the Vendor as the duly
constituted attorney of His Highness Sultan Ibrahim
for his use and benefit until he should apply for

In the Court
of Appeal of
The Republic
of Singapore

Bundle of
Indentures

No. 9

Grant,
Administrator
of Sultan of
Johore to
Respondent
and Liew Kong
Kee

7th October
1951
(continued)

Letters of Administration de bonis non with copy of the Will of the Testator annexed to be granted to him which he has not done at the date of these presents.

And Whereas by an Order of the High Court of the Colony of Singapore, Island of Singapore dated the 13th day of September 1951 and made in Originating Summons No. 167 of 1951 intituled "In the Matter of the Estate of Abu Bakar Sultan of the State and Territory of Johore, deceased And In the Matter of Lot 285 of Mukim XXXIII And In the Matter of Section 35(2) of the Conveyancing and Law of Property Ordinance (Chapter 118) the Court did (inter alia) order that the Vendor be at liberty to carry into effect a conditional agreement for the sale by the Vendor to the Purchasers of the land and premises described in the Schedule hereto at the price of \$65,000 and did further order that the Vendor as legal personal representative of the Testator be at liberty to execute a conveyance of the said land and premises to the Purchasers thereof and to receive and give a valid receipt for the said purchase money.

10

20

Now This Indenture Witnesseth that in pursuance of the premises and in consideration of the sum of Dollars Sixty five thousand (\$65,000) paid to the Vendor by the Purchasers on or before the execution of these presents (the receipt whereof the Vendor hereby acknowledges) the Vendor as such legal personal representative of the Testator as aforesaid hereby conveys unto the Purchasers All the land and premises described in the Schedule hereto To Hold the same unto the Purchasers in fee simple as tenants in common in equal shares.

30

In Witness whereof the Vendor has hereunto set his hand and seal the day and year first above written.

The Schedule Above Referred to

All that Island called or known by the name of Pulo Tekong Ketchil situated between Pulo Ubin and Pulo Tekong Besar in the District of Changi containing according to Government resurvey an area of 220 acres and marked on the Government Resurvey Map as Lot 285 of Mukim XXXIII which said piece or parcel of land is comprised and delineated in the plan

40

drawn on Indenture of Grant No.1 dated the 26th day of April 1860 and made between the Secretary of State for India in Council for and on behalf of Her Majesty the late Queen Victoria of the one part and Gilbert Angus of the other part Together with the appurtenances thereto belonging.

In the Court of Appeal of The Republic of Singapore

Bundle of Indentures

No. 9

Grant, Administrator of Sultan of Johore to Respondent and Liew Kong Kee

7th October 1951 (continued)

10 Signed Sealed and Delivered) by the abovenamed Vendor in) the presence of: Sd. P.V. Charry Solicitor, Johore Bahru

Sd. The Honourable Dato Abdullah bin Esa. (L.S.)

20 On this 7th day of October A.D. 1951 before me Pradip Venkata Charry an Advocate and Solicitor of the Supreme Court of the Federation of Malaya practising in Johore Bahru personally appeared The Honourable Dato Abdullah bin Esa who of my own personal knowledge I know to be the identical person whose name sd. "Honourable Dato Abdullah bin Esa" is subscribed to the above written instrument and acknowledged that he had voluntarily executed this instrument at Johore Bahru.

Witness my hand

Sd. Pradip Venkata Charry

Solicitor Johore Bahru.

30 Registered on the 23rd October 1951 at 11.15 a.m. under Lot 285 Mukim 33 in accordance with statement presented in Volume 1113 Page 765 No. 171.

Sd.

Dy. Registrar of Deeds.

In the Court
of Appeal of
The Republic
of Singapore

No. 10

Grant, Liew Kong Kee to Ng Cheng Koon
dated 16th June 1952

Bundle of
Indentures

No.10

Grant,
Liew Kong Kee
to Ng Cheng
Koon

16th June
1952

This Indenture is made the 16th day of June One thousand nine hundred and fifty two (1952) Between Liew Kong Kee of No.6A Jalan Pahang, Johore Bahru, Merchant (hereinafter called the Vendor) of the one part and Ng Cheng Koon of No.153 Neil Road, Singapore, Clerk (hereinafter called the Purchaser) of the other part.

10

Whereas by an Indenture dated the 7th day of October 1951 (Registered in Volume 1113 No. 171) and made between The Honourable Dato Abdullah bin Esa of the one part and Philip Hoalim and the Vendor of the other part the land and premises described in the Schedule hereto were conveyed by the said Honourable Dato Abdullah bin Esa to the said Philip Hoalim and the Vendor in fee simple as tenants in common in equal shares.

And whereas the Vendor has agreed to sell his one undivided moiety or equal half share of and in the said land and premises described in the Schedule hereto free from incumbrances to the Purchaser and the price of Dollars Thirty five thousand (\$35,000).

20

Now This Indenture Witnesseth that in consideration of the sum of Dollars Thirty five thousand (\$35,000) to the Vendor paid by the Purchaser on or before the execution of these presents (the receipt whereof the Vendor hereby acknowledges) the Vendor hereby conveys unto the Purchaser All that his one undivided moiety or equal half share and all other right title and interest (if any) of and in the land and premises described in the Schedule hereto To Hold the same unto the Purchaser in fee simple.

30

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

The Schedule Above Referred to

40

All that Island called or known by the name of Pulo Tekong Ketchil situated between Pulo Ubin and Pulo Tekong Besar in the District of Changi

10 containing according to Government Resurvey an area of 220 acres and marked on the Government Resurvey Map as Lot 285 of Mukim XXXIII which said piece or parcel of land is comprised and delineated in the plan drawn on Indenture of Grant No. 1 dated the 26th day of April 1860 and made between the Secretary of State for India in Council for and on behalf of Her Majesty the late Queen Victoria of the one part and Gilbert Angus of the other part Together with the appurtenances thereto belonging.

Signed Sealed and Delivered)
by the abovenamed Vendor in)
the presence of:-

Sgd. Philip Hoalim
Solicitor
S'pore.

Sd. Liew Kong Kee
(L.S.)
(In Chinese)

In the Court
of Appeal of
The Republic
of Singapore

Burdle of
Indentures

No.10

Grant,
Liew Kong Kee
to Ng Cheng
Koon

16th June
1952
(continued)

20 *(sic) On this 6th*day of June A.D. 1952 before me Philip Hoalim an Advocate and Solicitor of the Supreme Court of the Colony of Singapore practising in Singapore personally appeared Liew Kong Kee who of my own personal knowledge I know to be the identical person whose name sd. "Liew Kong Kee" (In Chinese) is subscribed to the above written instrument and acknowledged that he had voluntarily executed this instrument at Singapore.

Witness my hand.

Sd. Philip Hoalim.

30 Registered on the 8th July 1952 at 12.30 p.m. under Lot 285 Mukim 33 in accordance with statement presented in Volume 1138 Page 854 No. 196.

Sd.

Dy. Registrar of Deeds.

In the Court
of Appeal of
The Republic
of Singapore

Volume 1186 (Page 555 No. 132)

COLONY OF SINGAPORE, REGISTRY OF DEEDS

COPY of an Indenture of Conveyance

To be registered on behalf of Philip Hoalim of
No.3 Malacca Street, Singapore, Advocate and
Solicitor

Date: 12th July 1954

Parties Ng Cheng Koon of first part

and

10

Philip Hoalim of second part

Lot No.	Town Subdivision or Mukim	District	Title No.	House No.
285	M.XXXIII	Changi	Grant No.1 pt.	$\frac{1}{2}$

(One undivided moiety or equal half share)

J
42/48 Received Original Deed 31st
day of August 1954

Sd. ? Illegible

Clerk to Messrs. P. Hoalim & Co.

20

Solicitors for Philip Hoalim

Copy of Deed

Annexed

No. 11

Grant, Ng Cheng Koon to Respondent
dated 12th July 1954

In the Court
of Appeal of
The Republic
of Singapore

Stamp \$348

M. XXXIII.
Lot 285 - 220 acres
Sd. B.C.

Bundle of
Indentures

No.11

Grant,
Ng Cheng Koon
to Respondent

12th July
1954

10 THIS INDENTURE is made the 12th day of July
One thousand nine hundred and fiftyfour (1954)
Between NG CHENG KOON of No.153 Neil Road,
Singapore, Clerk, (hereinafter called the Vendor)
of the one part and PHILIP HOALIM of No.3 Malacca
Street, Singapore, Advocate and Solicitor (herein-
after called the Purchaser) of the other part.

WHEREAS the Vendor is seised for an estate in
fee simple in possession of an undivided moiety or
equal half share of and in the land and premises
described in the Schedule hereto free from
incumbrances.

20 AND WHEREAS the Vendor has agreed to sell to
the Purchaser his said one undivided moiety or
equal half share of and in the said land and
premises described in the Schedule hereto for the
sum of \$35,000-.

30 NOW THIS INDENTURE WITNESSETH that in
consideration of the sum of Dollars Thirty five
thousand (\$35,000-) to the Vendor paid by the
Purchaser on or before the execution of these
presents (the receipt whereof the Vendor hereby
acknowledges) the Vendor hereby conveys unto the
Purchaser All that his one undivided moiety or
equal half share and all other right title and
interest (if any) of and in the land and premises
described in the Schedule hereto TO HOLD the same
unto the Purchaser in fee simple.

IN WITNESS whereof the Vendor has hereunto
set his hand and seal the day and year first
above written.

THE SCHEDULE ABOVE REFERRED TO

40 All that Island called or known by the name
of Pulo Tekong Ketchil situated between Pulo Ubin
and Pulo Tekong Besar in the District of Changi
containing according to Government Resurvey an

In the Court
of Appeal of
the Republic
of Singapore

Bundle of
Indentures

No.11

Grant

Ng Cheng Koon
to Respondent

12th July

1954

(continued)

area of 220 acres and marked on the Government Resurvey Map as Lot 285 of Mukim XXXIII which said piece or parcel of land is comprised and delineated in the plan drawn on an Indenture of Grant No. 1 dated the 26th day of April 1860 and made between the Secretary of State for India in Council for and on behalf of Her Majesty the late Queen Victoria of the one part and Gilbert Angus of the other part Together with the appurtenances thereto belonging.

Signed Sealed and Delivered }
by the abovenamed Vendor in } Sd. Ng Cheng Koon
the presence of:- } (L.S.)

10

Sd. W. A. Goh,
Solicitor,
S'pore.

On this 12th day of July A.D.1954 before me Wembly Alexandra Saw Beng Goh an Advocate and Solicitor of the Supreme Court of the Colony of Singapore practising in Singapore personally appeared NG CHENG KOON who of my own personal knowledge I know to be the identical person whose name "Ng Cheng Koon" is subscribed to the above written instrument and acknowledged that he had voluntarily executed this instrument at Singapore.

20

Witness my hand.

Sd. W. A. Goh.

No.12

Agreement for
sale of
subject land

25th August
1951

No. 12

Agreement for sale of subject land
dated 25th August 1951

AN AGREEMENT made the 25th day of AUGUST 1951, Between the Honourable Dato ABDULLA BIN ESA of No.2 Jalan Gudang Obat, Johore Bahru (hereinafter called the "Vendor") of the one part and PHILIP HOALIM of No. 3 Malacca Street, Singapore, Advocate and Solicitor and LIEW KONG KEE of No. 6A Jalang Pahang, Johore Bahru, Merchant (hereinafter called the "Purchasers") of the other part WHEREBY IT IS AGREED AND DECLARED as follows:-

30

1. The Vendor agrees to sell and the Purchasers agree to purchase subject to the provisions

hereinafter contained the land more particularly described in the Schedule hereto in fee simple free from encumbrances at the price of \$65,000/- whereof a sum of \$6,500/- shall be paid to the Vendor as deposit on the signing hereof.

In the Court
of Appeal of
The Republic
of Singapore

—
No.12

Agreement for
sale of
subject land

25th August
1951
(continued)

10 2. The balance of the said purchase price shall be paid and the purchase shall be completed at the office of the Vendor's Solicitors, Messrs. Sisson & Delay, within fourteen days after the purchasers' Solicitors have been notified that the Order of Court for which the Vendor is to make an application under the provisions of Clause 7 hereof has been made.

20 3. The title to the said property shall commence with an Indenture of Conveyance made the 15th day of March 1878 (Registered in Volume 255 No.42) between Gilbert Angus of the one part and His Highness Aboobakar Maharajah of Johore of the other part and the Purchasers shall not be entitled to call for the production or make any enquiry, requisition or objection in respect of any Deed matter or thing antecedent to the root of title hereinbefore specified or with regard to any discrepancy in any Deed of the spelling of the name of any party thereof.

30 4. The title deeds of the said property are not in the custody of the Vendor and are believed to have been lost or destroyed. The Vendor will produce for inspection a certified copy of the Deed forming the root of title and the Purchasers shall accept production of such certified copy as conclusive evidence of the contents of the original Deed and shall not be entitled to make any objection on the ground that the said original Deed is missing and cannot be produced. The Vendor is unable and shall not be required to furnish either a Statutory Declaration or any other evidence as to the loss or destruction of the said original Deed and the Purchasers shall not be entitled to
40 make or raise any enquiry or requisition regarding the loss or destruction of the said original Deed.

5. No objection or requisition shall be made on the ground that any covenant acknowledgement or undertaking for the production or safe custody of any muniments of title is defective or insufficient or on the ground of the absence of any such covenant or undertaking or on the ground of the inability of

In the Court
of Appeal of
The Republic
of Singapore

No.12

Agreement for
sale of
subject land

25th August
1951

(continued)

the Vendor to trace or procure the production of any muniments of title.

6. The property is sold subject to any existing tenancies and the rights of any squatters or other persons claiming any interest in the property by virtue of adverse possession. The Purchasers shall be deemed to purchase with full knowledge of the actual state and condition of the property and of the rights or claims of all such persons as aforesaid and the Purchasers shall not be entitled to make or raise any enquiry or requisition with regard thereto. 10

7. The Vendor is selling as the personal representative of His Highness Abu Bakar, the late Sultan of the State and Territory of Johore, who died on the 11th day of June 1895. The Vendor will forthwith after the signing hereof apply to the Court for sanction of the sale under the provisions of Section 35(2) of the Conveyancing and Law of Property Ordinance (CAP.118) and this sale shall be deemed to be conditional upon the Vendor obtaining such sanction. 20

8. The sale shall be subject to all claims, notices or schemes and charges of the Singapore Improvement Trust and the Municipal Commissioners or the Rural Board. The Purchasers shall be deemed to purchase with full notice of all such matters or claims and shall not be entitled to make or raise any enquiry or requisition with regard thereto. The inability of the Purchasers to obtain or any delay in their obtaining from Government, the Municipal Commissioners or the Rural Board any information that they may require shall not be a ground for their delaying or failing to complete the purchase in accordance with the provisions of Clause 2 hereof. 30

9. Requisitions on Title shall be delivered to the Vendor's solicitors within ten days after the date hereof a draft assurance shall be delivered to the Vendor's Solicitors within fourteen days after the date hereof and an engrossment shall be delivered to the Vendor's Solicitors at least four days before the date fixed for completion. Time shall be of the essence of the contract in all these respects. 40

10. The sale is subject to and there shall be

deemed to be incorporated herein the General Conditions of Sale known as "The (Revised) Singapore Conditions of Sale" in so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the foregoing Special Conditions.

AS WITNESS the hands of the parties hereto the day and year first above written.

SCHEDULE ABOVE REFERRED TO

10 All that island called or known by the name of Pulau Tekong Kechil situated between Pulau Obin and Pulau Tekong Besar, containing according to Government resurvey an area of 220 acres and marked on the Government resurvey Map as Lot 285 of Mukim *(sic)XXIII,* which said piece or parcel of land is comprised and delineated in the plan endorsed on an indenture dated the 26th day of April, 1860 and made between the Secretary of State for India in Council for and on behalf of Her Majesty the late 20 Queen Victoria of the one part and Gilbert Angus of the other part, together with the appurtenances thereto belonging.

SIGNED by the above named Vendor in the presence of:-) Signed Abdulla Bin Esa

Signed Illegible

SIGNED by the above named Purchasers in the presence of:-) Signed Philip Hoalim) Signed Liew Kong Kee (in Chinese)

30 Signed Illegible

In the Court of Appeal of The Republic of Singapore

No.12

Agreement for sale of subject land

25th August 1951 (continued)

In the Court
of Appeal of
The Republic
of Singapore
No.13
Search at
Registry of
Deeds
1st November
1971

OFFICIAL CERTIFICATE OF SEARCH
Volume XI Page 152 No. 74

REPUBLIC OF SINGAPORE
REGISTRY OF DEEDS

No. 00550

I, JILLIAN LIM Jr., the Deputy Registrar of Deeds of the Republic of Singapore, having received a Requisition (a signed duplicate of which is attached hereto) for an official search against the land described in such requisition do hereby certify that I have caused an official search to be made against the said land, for all instruments registered within the period in the said requisition specified, as affecting such lands, and that the following is a complete list of such instruments:-

Date of Deed	<u>Place of Enrolment</u>			Nature of Deed	Names of Parties	Remarks as to encroach- ment, Back Lanes, etc.
	Volume	No.	Date			
<u>District; Changee (Pulau Tikong Kitchil) Lot 285 Mukim 33 Title: Grant 1 Area: 220a.</u>						
<u>Or. 00sc.</u>						
<u>Transactions under Survey Number 10494</u>						
15.3.1878	CCLV	42	5.12.1909	Conveyance	Gilbert Angus.....1st Part His Highness Aboobakar, Maharajah of Johore, G.C.M.G. & K.C.S.I., son of Ibrahim.....2nd Part	
14.12.1896	CCLV	134	13.12.1905	Memorandum of Certifi- cate of Grant of Probate	Abu Bakar son of Ibrahim late Sultan of Johore.	

Date of Deed	PLACE OF ENROLMENT			Nature of Deed	Names of Parties	Remarks as to encroachment, Back Lanes, etc.
	Volume	No.	Date			
15. 6.1923	DCLXXXVIII	6	2. 3.1927	Letter of Administration de bonis non with Will annexed	Probate Number 285 of 1922. Abubakar Sultan of the State & Territory of Johoredeceased. Dato Mustapha bin Jaafar of Johore Bahru Administrator	
<u>Transactions under Lot 285 Mukim 33 Area: 220a. Or. Op.</u>						
20.7.1949	1049	111	20.8.1949	Letter of Administration de bonis non with Will annexed	Probate Number 880 of 1948. Abu Bakar Sultan of the State and Territory of Johoredeceased. Administrator:- The Honourable Dato Abdullah bin Esa.	
13.9.1951	1111	29	26.9.1951	Order of Court	Originating Summons Number 167 of 1951. In the Matter of the Estate of Abu Bakar, Sultan of the State and Territory of Johore ... deceased and In the Matter of Lot 285 of Mukim XXXIII and In the Matter of Section 35(2) of the Conveyancing and Law of Property Ordinance (Cap.118)	

In the Court
 of Appeal of
 The Republic
 of Singapore
 No.13
 Search at
 Registry of
 Deeds
 1st November
 1971
 (continued)

In the Court
of Appeal of
The Republic
of Singapore
No.13
Search at
Registry of
Deeds
1st November
1971
(continued)

Date of Deed	PLACE OF ENROLMENT		Nature of Deed	Names of Parties	Remarks as to encroach- ment, Back Lanes, etc.
	Volume	No. Date			
7.10.1951	1113	171 23.10.1951	Conveyance	The Honourable Dato Abdullah bin Esa 1st Part Philip Hoalim and Liew Kong Kee 2nd Part	
16. 6.1952	1138	196 8. 7.1952	Conveyance	Liew Kong Kee 1st Part Ng Cheng Koon 2nd Part	$\frac{1}{2}$ share
12. 7.1954	1186	132 23. 7.1954	Conveyance	Ng Cheng Koon 1st Part Philip Hoalim 2nd Part	$\frac{1}{2}$ share

Dated this 1st day of November 1971

Signed Jillian Lim Jr.
Dy. Registrar of Deeds,
Singapore.

No. 14

Affidavit of Mah Bah Chee sworn 24th
June 1974 and Exhibit A9 thereto

In the Court
of Appeal of
The Republic
of Singapore

A F F I D A V I T

No.14

I, Mah Bah Chee of No.6 Jalan Waringin,
Singapore make oath and say as follows:-

Affidavit of
Mah Bah Chee
sworn 24th
June 1974
and Exhibit
A9 thereto

10

1. I am a search clerk in the employ of Messrs.
Wee Swee Teow & Co., Advocates and Solicitors of
Singapore and have been so employed for over 40
years.

2. At the request of Mr. Philip Hoalim I made a
search of the property known as Pulo Tekong Kechil
comprised in Lot 285 of Mukim XXXIII and containing
an area of 220 acres and I verily believe that the
search paper which is in my handwriting has been
exhibited in these proceedings as A9.

3. The Deed made by the Secretary of State for
India in favour of Gilbert Angus dated the 26th
April 1860 was a primary Deed and not registered.

20

SWORN to at Singapore this)
24th day of June 1974) Signed ?

Before me,

Sgd. Mah Bah Chee

A Commissioner for Oaths.

Mesui Chen
Commissioner for Oaths
Judiciary, Singapore

In the Court
of Appeal of
The Republic
of Singapore

Exhibit A9

Grant No.1
Survey No.10494
District Changi (Pulo Tekong Kitchil)
Mukim XXXIII Lot 285 - 220a. Or. 00p.

No.14

Affidavit of
Wah Bah Chee
sworn 24th
June 1974
and Exhibit
A9 thereto
(continued)

5th December	1905	Conveyance	G.Angus 1st pt. His Highness Aboobakar Maharajah of Johore G.C.M.G. & K.C.S.I. 2nd pt. 10 CCLV - 42	
13th December	1905	Memo of Cert. of Gt. of a Probate	Abu Bakar son of Ibrahim late Sultan of Johore CCLV - 134	
2nd March	1927	L/A de bonis non with Will annexed	Probate No.285 of 1922 Abubakar Sultan of the State & Territory of Johore decd. Dato Mustapha bin Jaafar Admr. DCLXXXVIII - 6	20

C. of L. to be notified of any
further transactions in respect
of this land vide L.O.Conf.
11/34.

Now see minute of C.L.R. dated
6/9/49 in Ref. to 236/49.

a. r. p. 30
Mukim XXXIII Lot 285 - 220-0-00

20th August	1949	L/A de bonis non	Probate No.880 of 1948 Abu Bakar Sultan of the State & Territory of Johore decd. Admr:- The Hon'ble Dato Abdullah bin Esa. 1049 - 111	40
-------------	------	---------------------	---	----

26th September 1951 O/C O.S.No.167 of 1951 In the Matter of the Estate of Abu Bakar Sultan of the State of Johore decd & In the Matter of Lot 285 of Mk.23 & In the Matter of Section 35(2) of the Conveyancing & Law of Property Ordinance (Cap. 118).

In the Court of Appeal of The Republic of Singapore

No.14

Affidavit of Mah Bah Chee sworn 24th June 1974 and Exhibit A9 thereto (continued)

10

1111 - 29

up to date Vol.1111-66
28-9-51

No. 15

No.15

Judgment

Judgment

Coram: Wee Chong Jin, C.J.
F.A. Chua, J.
Tan Ah Tah, J.

18th March
1975

JUDGMENT

20

This is a case stated by the Appeals Board constituted under the provisions of section 19(1) of the Land Acquisition Act (Chapter 272) on questions of law for the opinion of the Court pursuant to the provisions of section 30 of the Act. The case stated, as required by that section, sets out the facts which are not in dispute and the questions of law on which the opinion of the Court is sought. No decision has yet been made by the Board.

30

The case stated arises out of an appeal by the appellant, Mr. Philip Hoalim, against an award of the Collector of Land Revenue of the sum of \$67,500.00 in respect of Lot 285 of Mukim XXXIII, an island consisting of an area of 220 acres and generally known as Pulau Tekong Kechil. This island is part of the Republic of Singapore and is situated close to the south eastern coast of the main island of Singapore.

There are two main issues in that appeal, namely,

40

(i) is the market value of the property limited by the provisions contained in the original

In the Court
of Appeal of
The Republic
of Singapore

No.15

Judgment

18th March
1975
(continued)

Crown grant of the property in 1860 and, if so, to what extent; and

(ii) if not, what is the true market value of the property at the relevant date.

The opinion of the Court is sought only in connection with the first of these questions, the second having been the subject of evidence heard by the Board. On the first question, the Collector's case is that the value of the acquired land is limited by the terms of the original Crown grant. The appellant's case is to the contrary and that the land should be valued at its ordinary open market value.

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All the relevant documents relating to the property are contained in the annexures to the case stated. The material dates are as follows:-

26th April, 1860	- Crown grant to Angus (pages 20 - 22)	
15th March, 1878	- Angus to Sultan of Johore (pages 23 and 24)	20
7th October, 1951	- Administrator of Sultan of Johore to Hoalim and Liew Kong Kee (pages 25 - 27)	
16th June, 1952	- Liew Kong Kee to Ng Cheng Koon ($\frac{1}{2}$ share) (pages 28 and 29)	
12th July, 1954	- Ng Cheng Koon to Hoalim ($\frac{1}{2}$ share) (pages 31 and 32)	30

At the relevant date, it is not in dispute that the appellant was the sole owner of the entire property. It is also not in dispute that the original Crown grant is not registered at the Registry of Deeds. It is also now not in dispute that the rights of the Crown under the original grant are now vested in the Government of Singapore and can be exercised by the Government if the provision in the grant hereinafter set out is binding on the appellant.

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The original grant contains a provision as follows (page 1):-

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10 "Subject nevertheless to the conditions hereinafter mentioned that is to say the said Gilbert Angus for himself his Heirs Executors Administrators and Assigns Doth hereby covenant and agree to surrender and make over unto the said Secretary of State for India in Council or his Successors in Office the said land and premises should it at any time be required for public purposes, on a requisition made to him to that effect in writing and upon the payment to him the said Gilbert Angus His Heirs Executors Administrators and Assigns by the said Secretary of State for India in Council or his Successors in office of all sum or sums of money that the said Gilbert Angus his Heirs Administrators Executors or
20 Assigns may or shall have incurred expended (sic) upon the said land".

The issue before the Board on which the opinion of the Court, by way of a Case Stated, is sought is, what is the effect of this provision and, if it has any effect, does it bind the appellant or purchasers from him, and if so with what result.

The Case Stated sets out the questions of law for the opinion of the Court in the following terms:-

- 30 " (i) Is the said provision a covenant creating an interest in land, or is it a condition or is it both, and is the interest, if any, created thereby legal or equitable?
- (ii) Is the interest, if any, created by the said provision void by reason of the operation of the rule against perpetuities and in particular:
- (a) does the rule apply at all (apart from statutory enactment) to legal rights of re-entry for condition broken;
- (b) does the rule apply to equitable rights to enforce a covenant for a reconveyance against the land owner who is successor in title of the covenantor;

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- (c) if either (a) or (b) is answered in the affirmative does the rule apply in Singapore to provisions contained in grants by the Crown or its successor the state?
- (iii) If the said provision constitutes a valid common law condition is the question of notice, actual or constructive, material?
- (iv) On whom is the burden of proof of the existence or absence of actual notice of the said provision? 10
- (v) On the assumption that the appellant had no actual notice of the said provision did he nevertheless have constructive notice thereof? And is the appellant bound in view of the non-registration of the original grant?
- (vi) In the event that the said provision is binding upon the appellant in whom are the rights of the Secretary under the original grant now vested and can they be exercised? 20
- (vii) In the event that the said rights can be exercised how are the words in the said provision - "all sum or sums of money that the said Gilbert Angus His Heirs Administrators Executors or Assigns may or shall have incurred expended upon the said land (sic)" to be construed. 30

Question (i)

On behalf of the appellant it is contended that the provision is not a condition but is merely a covenant which, but for the Rule against Perpetuities, would have created only an equitable interest in land. The respondent, on the other hand, contends that the provision is not merely a covenant but also a condition and that the interest created thereby constitutes both a common law condition, i.e. a legal interest in land, and an equitable right under the covenant i.e. an equitable interest in land. It is however conceded by the respondent that the Rule against Perpetuities

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applies to equitable rights to enforce a covenant for re-conveyance against a land owner who is successor in title of the covenantor.

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10 The said provision begins with the phrase "subject nevertheless to the conditions hereinafter mentioned.....". It is not in dispute that, on the authorities, where the words used are "Provided always" or "Upon condition that" then the provision is a common law condition and not a covenant or mere contractual term. Mr. Jumabhoy, on behalf of the appellant, submits that as the provision does not contain words such as "Provided always" or "Upon condition that" the provision looked at as a whole should be construed to be a contractual term and not a common law condition.

20 Mr. Graham Hill, for the respondent, contends that the provision is not merely a covenant but also a condition so that a breach of the covenant to surrender would entitle the Crown to re-enter and resume ownership of the property. He contends that any other interpretation would give no force to the perfectly technical phrase "subject nevertheless to the conditions hereinafter mentioned" and that there is authority (see Sheppard's Touchstone, 122) that one and the same clause "may be also a condition and a covenant as if the words run thus : provided always, and the foeffee etc. doth covenant etc. that neither he nor his heirs shall do such an act, this is both a condition and a covenant". We accept the respondent's contention and in our opinion the words "subject nevertheless to the conditions hereinafter mentioned" in the said provision import a condition and the whole provision amounts both to a condition and a covenant creating an interest in land, both legal and equitable.

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Question (ii)(a)

40 Mr. Jumabhoy contends that the Rule against Perpetuities applies to legal rights of re-entry for condition broken and relies on the English authorities which are referred to in Morris and Leach on Perpetuities, 2nd Edition at pages 210-218. Before referring to these authorities it would be useful to state what the Rule is and we adopt Gray's definition at S.201 of the 2nd edition of his book "Rule against Perpetuities" which runs as follows: "No interest is good

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unless it must vest, if at all, not later than twenty-one years after some life in being at the creation of the interest". It is a rule of the common law as decided by English judges and founded on public policy to protect the public against private wishes. It originated to enable free alienability of land and eventually developed into its present inflexible form controlling not only interests in land but also trusts of personality.

In the case of *In re the Trustees of Hollis' Hospital and Hague's Contract* (1899) 2 Ch. 540 10
Byrne J. was considering whether a condition in a deed of release dated 18th May 1726 which contained a proviso that if at any time thereafter the premises which had been conveyed by Hollis to trustees upon trust for the hospital or any part thereof should be employed or converted to or for any other uses, intents or purposes than those thereinbefore mentioned, then and from thenceforth all and every the premises thereinbefore conveyed 20
should revert to the right heirs of Hollis party thereto.

Byrne J. held that the condition was in terms and form a true common law condition and was void as being obnoxious to the Rule against Perpetuities. The learned judge followed the dictum of Jessel MR in *In re Macleay* (1875) L.R. seq. 136 and of North J. in *Dunn v. Flood* (1883) 25 Ch. 629 and the observations of Baggallay L.J. on appeal in 28 Ch. 592 where the Lord Justice said :- 30

"This right of re-entry was held by Mr. Justice North to be void for remoteness. We have not heard counsel for the defendant, but, as at present advised I concur with Mr. Justice North that this right could not be enforced being void under the rule against perpetuities".

In the case of *In re Da Costa* (1912) 1 Ch.337 40
Eve J. followed *In re the trustees of Hollis Hospital and Hague's Contract* (supra). In that case the testator devised all his real estate at Adelaide, South Australia to trustees upon trust during the lives of successive tenants for life to apply the income in a particular manner, and on the falling in of the last life tenancy to convey the real estate to the Council of the Church of England Collegiate School, Adelaide on the express condition

that the Council published annually a statement of payments and receipts, and in case of default for six calendar months in the publication of such statement the disposition in favour of the school was thenceforth to cease and to go over to and enure for the sole benefit of such person or persons and for such public purpose as the Governor of South Australia should in writing direct. Eve J. held that the gift over and the condition were both bad, the latter being a common law condition subsequent, working a forfeiture on the condition coming into operation, and obnoxious to the Rule against Perpetuities.

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In *Hopper and Others v. The Corporation of Liverpool* (1944) Sol. J. 213 the Vice-Chancellor Sir John Bennett said that he was bound by the decision of Byrne J. which was followed by Eve J. and said at p.215:-

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"I cannot but think that if the rule against perpetuities applies to the possibility of reverter on a fee subject to a condition which may or may not happen, it must equally apply to the possibility of reverter on a fee limited to determine on an event which may or may not happen. I am therefore of opinion that the rule against perpetuities does apply in this case".

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Mr. Graham Hill for the respondent concedes that the English authorities are against him but relies on two decisions of the Irish Courts which have taken the view that the Rule against Perpetuities is inapplicable to common law conditional conveyances. He submits that the reasons behind the Irish decisions are better founded in history and more consistent with other doctrines of the law (especially those relating to leases and mortgages) than the arguments which led the English courts to take the opposite view. He urges us to accept the Irish decisions as the question has never been before our Courts.

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The first Irish case is *Attorney-General v. Cummins* (1906) 1 I.R. 406 which was decided in 1895 but not reported until 1906 and, accordingly, not cited to Byrne J. in *In re Hollis Hospital* case (supra) and apparently not considered by the other English judges who followed *In re Hollis Hospital* case. The direct issue before the Irish King's

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Bench Division in Attorney-General v. Cummins was whether the Rule against Perpetuities applied to common law conditions subsequent. By Letters Patent a grant was made of quit rents amounting to about £500 to hold the same to the grantee his heirs and assigns till he or they should receive or be paid the sum of £500. Palles C.B. who delivered the judgment of the court said the grant passed the quit rents in fee subject to the condition determining the fee on making the payment mentioned. Under such a grant the grantee, until the happening of the determining event, had the whole estate in him, and the old common law doctrine was undoubtedly that a possibility of reverter - a possibility coupled with an interest - remained in the Crown as grantor. Palles C.B. said the grant in question operated at common law. It did not take effect under the Statute of Uses, and the modern rule against perpetuities never applied to common law conveyances. It was impossible that it could have applied because it had its origin in the Statute of Uses and the subject matter of that statute did not include conveyances other than to uses. The only mode by which the common law held that a previous estate ought to be determined before its natural expiration was by means of the annexation of a condition. But if a condition were annexed, then, on the happening of the stipulated event, the estate was defeated, and the donor or his heirs were entitled to enter, and, on entry, was in of his former estate. Palles C.B. went on to say:-

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"If modern recognition of the common law elementary doctrine be required, it will be found, in the opinion of Lord Cairns (then Lord Chancellor) in the Buckhurst Peerage Case: 'The common law did understand one mode of putting an end to an estate which in the first instance appeared to be granted absolutely, that is to say, it understood the mode of terminating an estate by means of the annexation of a condition. If a condition was annexed to an estate which otherwise would have been absolute, then on the happening of the condition the estate was defeated. But then, my Lords, it was not defeated for the benefit of the remainderman; nor could a remainderman have been annexed to the condition. It was defeated as defeasible by or for the donor who was entitled to take for condition broken'".

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50

In 1926 the Irish Court of Appeal in the case of Walsh and Others v. Wightman and Arthur (1927) N.I. 1 cited with approval the judgment of Palles C.B. after considering the English authorities which arrived at a different conclusion. Andrews K.J. after considering at length the English authorities and Attorney-General v. Cummins and the views of the leading text book writers said at page 15:-

10 "In the conflict of judicial authority which has arisen and on the clash of opinion of the leading text book writers of the day, I unhesitatingly adopt the judgment of the Lord Chief Baron (Palles C.B.) which commends itself to my acceptance on both historical and logical grounds".

On our part, we would also accept the judgment of Palles C.B. and, accordingly, our answer to this question is in the negative.

Question (ii)(b)

20 Mr. Graham Hill concedes, in our opinion rightly so, that the Rule against Perpetuities applies to equitable rights to enforce a covenant for a re-conveyance against the land owner who is successor in title of the covenantor and the answer to this question is in the affirmative.

Question (ii)(c)

30 On this question there is a dearth of authority and apparently the English courts never had to decide whether the Rule against Perpetuities applies to conditions or limitations contained in a grant by the Crown. In apparently the only reported case before it, the Judicial Committee of the Privy Council, (Cooper v. Stuart 14 A.C. 286) on an appeal from the Supreme Court of New South Wales, Australia, the point was raised in argument but not decided. The judgment of the Privy Council at page 290 alluded to it in the following terms:-

40 "They (the respondent's counsel) maintained that there is no authority for extending the rule (against perpetuities) to a Crown grant in England; and pointed out that the Crown may lawfully annex a condition against alienation on a grant of fee, and other conditions which are not competent to

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a private person. They argued also that, although the rule had been applied to conveyances operating under the Statute of Uses, it had not been applied to common law conditions, or conditional limitations in common law grants which existed before that statute.

It does not appear to their Lordships to be necessary, for the purposes of the present case, to decide whether the Crown, in attaching such reservations to grants of land in England, would be affected by the rule against perpetuities." 10

In *Cooper v. Stuart* (7 N.S.W. Eq. 1) the Court of Appeal of the Supreme Court of New South Wales was considering the question whether a Crown grant made in 1823, of 1400 acres of land, in which was made a reservation of "... any quantity of land not exceeding 10 acres in any part of the said land as might be required for public purposes" was valid and not void as an infringement of the Rule against Perpetuities. All the three members of the Court were of the opinion that the rule would not bind the Crown applying the maxim "Nullum tempus occurrit regi". 20

The Privy Council dismissed the appeal and held, assuming the Crown to be affected by the rule, that it was nevertheless inapplicable, in the year 1823, to Crown grants of land in the Colony of New South Wales, or to reservations or defeasances in such grants to take effect on some contingency more or less remote, and only when necessary for the public good. The reasoning behind the decision is set out in the judgment delivered by Lord Watson (p.293):- 30

" The rule against perpetuities, as applied to persons and gifts of a private character, though not finally settled in all its details, until a comparatively recent date, is, in its principle, an important feature of the common law of England. To that extent it appears to be founded upon plain considerations of policy, and, in some shape or other, finds a place in most, if not in all, complete systems of jurisprudence. Their Lordships see no reason to suppose that the rule, so limited, is not required in New South Wales 40

by the same considerations which have led to its introduction here, or that its operation in that Colony would be less beneficial than in England. The learned judges of the Supreme Court of the Colony, in deciding this case, proceeded on the assumption that the rule applies there as between subject and subject; and their Lordships are of opinion that the assumption is well founded.

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10 Assuming next (but for the purposes of
this argument only) that the rule has, in
England, been extended to the Crown, its
suitability, when so applied, to the
necessities of a young Colony raises a very
different question. The object of the Govern-
ment, in giving off public lands to settlers,
is not so much to dispose of the land to
pecuniary profit as to attract other colonists.
20 It is simply impossible to foresee what land
will be required for public uses before the
immigrants arrive who are to constitute the
public. Their prospective wants can only be
provided for in two ways, either by reserving
from settlement portions of land, which may
prove to be useless for the purpose for which
they are reserved, or by making grants of
land in settlement, retaining the right to
resume such parts as may be found necessary
30 for the uses of an increased population. To
adopt the first of these methods might tend
to defeat the very objects which it is the
duty of a colonial governor to promote; and a
rule which rests on considerations of public
policy cannot be said to be reasonably
applied when its application may probably
lead to that result".

40 In this country the Courts have long held
that the rule applies as against subject and sub-
ject but have never been called upon to decide
whether it applies to the Crown. The passage
just quoted is of assistance in deciding whether
or not the rule is applicable to the original
Crown grant in 1860 containing the condition in
question. Both New South Wales and Singapore were
formerly colonies of the English Crown. Both
Crown grants were made during the early years of
colonisation. Both colonies at the date of
colonisation were extremely sparsely populated.
In both grants conditions were annexed to enable

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the land or part of the land granted to revert to the Crown should it at any time be required for public purposes. The one material difference between the two grants is that the New South Wales grant was in the nature of a gift whereas in the Singapore grant the consideration was \$1400/-. The other circumstance which is different is territorial in that Singapore is extremely small in size compared to New South Wales.

Having regard to these considerations, we are of the opinion, adopting the reasoning behind the decision of the Privy Council in *Cooper v. Stuart* (supra) that the Rule against Perpetuities was inapplicable in the year 1860 to the original Crown grant in question. Our answer to this question, accordingly, is in the negative.

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Question (iii)

It is not in dispute that the answer to this question is in the negative.

Question (iv)

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The appellant concedes that the burden of proof is on him.

Question (v)

There are two questions to be considered. The first, on the assumption that the appellant had no actual notice of the provision in the original Crown grant, is whether or not he has constructive notice thereof. It is not in dispute that the question of notice, actual or constructive, is wholly immaterial if the provision constitutes a common law condition.

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Mr. Graham Hill for the respondent relies on the well established doctrine that notice of any deed essential to the vendor's title is notice of its contents. In *Hooper v. Bromet* (89 L.T. 37), Farwell, J. said at page 38:-

"To my mind, when a man has notice of a deed he is affected by notice of its contents. If he does not find it out by obtaining production of the deed, he is at fault. In *Patman v. Harland* (17 Ch.D.353) Jessel M.R. says at p.356 -

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'.....Constructive notice of a deed is constructive notice of its contents, subject to what I am going to say presently. If, therefore, you have notice of a deed relating to the title, you have notice of the contents of the deed, and it is no excuse for not asking to look at it to say you were told that the deed contained nothing that it was necessary for you to look at, otherwise in every case you might be satisfied with a statement of the contents of a deed without going to look at it. Of course there may be cases where the deed cannot be got at, or for some reason where, with the exercise of all the prudence in the world, you cannot see it, and then there may be no constructive notice affecting the title, but that is another question'".

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Mr. Graham Hill submits that the appellant's contention that the title deduced in 1951 when the appellant and another purchased the land began with the Conveyance of 1878 from the original grantee to the then purchaser, is no answer because the 1878 Conveyance is not a self-contained root of title since it identifies the property conveyed by reference to the boundaries shown in the plan endorsed on the original Crown grant of 1860 and the same method was adopted again in 1951 when the appellant and another purchased the land. Mr. Graham Hill argues that the plan was thus incorporated in the Conveyance of 1878, and that clearly no abstract of the latter would have been sufficient without a copy of the plan notwithstanding S.3(5) of the Conveyancing and Law of Property Act (Ch.268) the material provisions of which read thus:-

"S.3(5). A purchaser of any property shall not be entitled to require the production, or any abstract or copy, of any deed or other instrument dated or made before the time prescribed by law ... for commencement of title ...".

In support of his argument he relies on the case of *Llewellyn v. Jersey* (11 M. & W. 183). In that case Parke, B. with whose judgment the other judges concurred, said :-

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"That deed recites a contract for the sale of certain lands, by a description corresponding with that subsequently contained in the deed, and then proceeds to convey them, with a reference for that description to three schedules. The portion of the particular schedule (the third) which relates to the piece in question, states it, in the first column, which is headed 'No. on the plan of the Briton Ferry Estate,' to be '153 b;' in the second (189) column, under the heading 'Description of premises,' it is stated to be 'a small piece marked on the plan;' in the third, it is described as being in the possession of John Elrington, and in the fourth, as containing 34 perches. Now it appears to me that this case may be determined by the application of two well-known maxims of law. The first is, that 'verba relata inesse videntur;' according to which, we must consider it to be the same thing here, as if the map of plan, which is there referred to, had been actually inserted in the deed".

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We accept the respondent's contention that the appellant had constructive notice of the provision in the original Crown grant and in our opinion the answer to this part of the question is in the affirmative.

The second question is whether or not the appellant is bound in view of the non-registration of the original Crown grant. Mr. Graham Hill for the respondent contends that the 1860 Crown grant is not capable of registration in the Registry of Deeds. At the date of the grant there was in force in Singapore the Indian Act XXI of 1839, Section XI, Clause First of which reads as follows:-

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"XI. Clause First.-All mutations by act or party or by succession in titles to land taking place after the first day of January in the year of our Lord 1840 shall be registered under the following rules".

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Clause Fifth of Section XI reads as follows:-

"Clause Fifth.- The registry of a mutation shall not of itself be taken to convey or establish any legal title to land, nor shall it be held to corroborate qualify or bar any

rights which may come to be questioned judicially. But no deed whatsoever for the sale or transfer of land which may be executed after the first day of January, in the year of our Lord 1840 shall be admitted to be valid by the officers of Government or be received in evidence as a legal instrument by any Court of Judicature unless the same shall have been registered in the Collector's Office in the manner directed by this Section, nor shall any Probate or Letters of Administration be received as evidence of title to land, until so registered."

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In our opinion, the original Crown grant to Angus in 1860 comes within the expression "mutations by act of party" in the First Clause and also within the expression "no deed whatsoever" in the Fifth Clause of Section XI of the 1839 Indian Act which was in force in 1860. In our opinion the Crown then was bound "to register in the Collector's Office in the manner directed by this Section" before it could successfully ask "any Court of Judicature" to receive the deed in evidence as a legal instrument.

Mr. Graham Hill contends, also, that Section 4 of the present Registration of Deeds Act (Ch.281) which superseded the 1839 Indian Act does not bind the Government by reason of Section 55 of the Interpretation Act (Ch.3) which provides that:-

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"No Act shall in any manner whatsoever affect the rights of the Government unless it is therein expressly provided, or unless it appears by necessary implication that the Government is bound thereby".

Section 4 of the Registration of Deeds Act (Ch. 281) provides that:-

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"4. From and after the commencement of this Act and subject to this Act and any rules made thereunder, all assurances thereafter or theretofore executed or made, and all probates and letters of administration thereafter or theretofore granted, by which any land within Singapore is affected and which have not been registered under the Registration of Deeds Ordinance, 1886, may be registered in such manner as is herein-

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after directed, and unless and until so registered shall not be admissible in any court as evidence of title to such land".

The expression "assurance" is defined in Section 3 to include "any conveyance" and the expression "conveyance" is defined to include "any assignment ... made by deed on a sale ... of any land ...". In our opinion the original Crown grant of 1860 is clearly an "assurance" and the Government is by necessary implication bound by the provisions of Section 4 of the Registration of Deeds Act and indeed by the whole Act. Accordingly, our answer to the second part of Question (v) is in the negative.

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Question (vi)

The appellant concedes that the rights of the Secretary of State for India in Council under the original Crown grant are now vested in the independent Republic of Singapore and can be executed by the Government of Singapore.

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Question (vii)

The words in the provision in the original Crown grant to be construed read as follows:-

"All sum or sums of money that the said Gilbert Angus His Heirs Administrators Executors or Assigns may or shall have incurred expended upon the said land".

The appellant contends that on their true construction the above words mean the purchase price paid by the owner at the time of the exercise by the Government of the right to repurchase the land for public purposes together with any sum or sums of money he has expended upon the land. The respondent, on the other hand, contends that the words must be given their ordinary meaning so that the State's obligation as successor to the Crown is to repay only what the original grantee and his successors in title have collectively "incurred expended upon the said land". The respondent's argument is that these words mean the total of the sums of money proved to have been actually spent on the land as a piece of property by the original grantee and his successors in title and thus the price will include the original purchase money and

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all moneys spent on the construction, improvement and maintenance of building, jetties, sea-walls, drains and other structures on the land.

10 In our judgment the appellant's contention is correct and gives effect to the intention of the parties to the original grant as expressed in the words to be construed. The answer to this question is that the said words should be construed to mean the actual purchase price paid by the owner at the time of the exercise by the Government of the right of re-purchase and any other sum or sums of money he has subsequently expended upon the land.

Sd. WEE CHONG JIN
CHIEF JUSTICE,
SINGAPORE.

Sd. F.A. Chua
(F.A. Chua)
Judge.

20 Sd. Tan Ah Tah
(Tan Ah Tah)
Judge.

SINGAPORE, 18TH MARCH 1975.

Certified true copy.
Sd. Ng Peck Chuan
Private Secretary to
the Hon. the Chief Justice,
Supreme Court,
Singapore, 6.

No. 16

Order

No.16

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CORAM:

THE HONOURABLE THE CHIEF JUSTICE
THE HONOURABLE MR. JUSTICE F.A. CHUA
THE HONOURABLE MR. JUSTICE TAN AH TAH

IN OPEN COURT

THIS CASE having been stated pursuant to the provisions of section 30 of the Land Acquisition

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Act (Chapter 272 of the Revised Edition of the Laws) by the Appeals Board constituted under section 19(1) of the said Act for the opinion of the Court of Appeal and THIS CASE COMING ON for hearing before this Honourable Court on the 20th and 21st days of November, 1974, in the presence of Counsel for the abovenamed Appellant and Counsel for the abovenamed Respondent and UPON reading this Case and the annexures thereto AND UPON hearing Counsel for the Appellant and Respondent THIS COURT DID ORDER that the Case should stand for delivery of the Court's opinion and the same standing for delivery of the Court's opinion this day in the presence of Counsel aforesaid the Opinion of this Court thereon was delivered AND THIS COURT DOTH ORDER that the Case be remitted to the said Appeals Board with the said Opinion thereon for the said Appeals Board's further consideration AND IT IS LASTLY ORDERED that the costs of and incidental to the Case be reserved for the said Appeals Board.

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Dated the 18th day of March, 1975.

Sd. S.K. Tan

ASST. REGISTRAR.

(Filed this 21st day of June, 1975)

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Order
granting
leave to
appeal to
Judicial
Committee of
the Privy
Council

19th May 1975

No. 17

ORDER granting leave to appeal to
Judicial Committee of the Privy Council

CORAM: THE HONOURABLE THE CHIEF JUSTICE;
THE HONOURABLE MR. JUSTICE WINSLOW; and
THE HONOURABLE MR. JUSTICE KULASEKARAM.

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IN OPEN COURT

Upon Motion preferred unto this Court this day in the presence of Mr. Graham Starforth Hill of Counsel for the Respondent and Mr. Yusuf Rajabali Jumabhoy of Counsel for the Appellant and upon reading the affidavit of Kwek Chwee Lim filed herein on the 5th day of May, 1975 and the affidavit of Philip Hoalim filed herein on the 16th day of May, 1975 and upon hearing Counsel as aforesaid IT IS ORDERED that the Respondent be at

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liberty to appeal to the Judicial Committee of Her Britannic Majesty's Privy Council under Order 58 Rule 2 of the Rules of the Supreme Court, 1970 against such part of the decision of the Court of Appeal given on the 18th day of March 1975 as decides that the Appellant is not bound by the terms of the 1860 grant by reason of the fact that it was never registered AND IT IS FURTHER ORDERED that the order remitting the Case Stated to the Appeals Board be stayed pending the outcome of the appeal to Privy Council AND IT IS LASTLY ORDERED that the costs of and incidental to this application be costs in the cause.

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Dated the 19th day of May, 1975.

Sd. Colin Chai
ASST. REGISTRAR.

(Filed this 11th day of June, 1975)

In the Court
of Appeal of
The Republic
of Singapore

No.17

Order
granting
leave to
appeal to
Judicial
Committee of
the Privy
Council

19th May 1975
(continued)

No. 18

ORDER granting leave to Cross-Appeal to
Judicial Committee of the Privy Council

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CORAM:

THE HONOURABLE THE CHIEF JUSTICE
THE HONOURABLE MR. JUSTICE F.A. CHUA
THE HONOURABLE MR. JUSTICE TAN AH TAH

IN OPEN COURT

UPON Motion preferred unto this Court in the presence of Yusuf Rajabali Jumabhoy of Counsel for the abovenamed Appellant and Mr. Dennis Singham of Counsel for the abovenamed Respondent AND UPON READING the Affidavit of the Appellant, Philip Hoalim sworn and filed herein on the 12th day of June, 1975 AND UPON HEARING Counsel aforesaid IT IS ORDERED that the abovenamed Appellant BE AND IS HEREBY at liberty to cross-appeal to the Judicial Committee of Her Britannic Majesty's Privy Council under Order 58 Rule 2 of the Rules of the Supreme Court, 1970 against two parts of the decision of the Court of Appeal given herein on the 18th day of March, 1975 namely:-

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(i) where it decided that the provision contained in the 1860 Grant reading "Subject nevertheless

No.18

Order
granting
leave to
Cross-Appeal
to Judicial
Committee of
the Privy
Council

30th June
1975

In the Court
of Appeal of
The Republic
of Singapore

No.18

Order
granting
leave to
Cross-Appeal
to Judicial
Committee of
the Privy
Council

30th June
1975
(continued)

to the conditions hereinafter mentioned
....." constitutes a condition, and

(ii) that which held that the Appellant had
constructive notice of the 1860 Grant.

AND IT IS FURTHER ORDERED that the time for filing
the Record of Appeal herein BE AND IS HEREBY
EXTENDED to four weeks from the date of this Order
AND IT IS FURTHER ORDERED that the costs of and
incidental to this application be costs in the
cause AND LASTLY THIS COURT MAKES no Order as to
security of costs.

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Dated the 30th day of June, 1975

Sd. Colin Chai
ASST. REGISTRAR.

O N A P P E A L
FROM THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

B E T W E E N :

COLLECTOR OF LAND REVENUE, *SINGAPORE*

Appellant
(Respondent)

- and -

PHILIP HOALIM

Respondent
(Appellant)

and CROSS-APPEAL

RECORD OF PROCEEDINGS

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