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IN THE PRIVY COUNCIL

No. 64 of 1960

ON APPEAL
FROM THE SUPREME COURT OF THE FEDERATION
OF MALAYA

B E T W E E N

CHUA CHEE CHOR (Defendant) Appellant

- and -

1. CHUA KIM YONG Administrator of the estate of Chua Ah Chee alias Chua Kee Peng deceased
 2. KWONG KEH SAN (f) the Administratrix of the estate of Chua Kee Law deceased
 3. CHUA KIM SWEE
 4. CHUA KIM YONG
 5. CHUA KIM HOON (Plaintiffs) Respondents
-

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
30 MAR 1963
25 RUSSELL SQUARE
LONDON, W.C.1.

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R E C O R D O F P R O C E E D I N G S

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Solicitors for the Appellant.

IN THE PRIVY COUNCILNo. 64 of 1960

ON APPEAL
FROM THE SUPREME COURT OF THE FEDERATION
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B E T W E E NCHUA CHEE CHOR (Defendant) Appellant

- and -

1. CHUA KIM YONG Administrator
of the estate of Chua Ah Chee
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2. KWONG KEH SAN (f) the
Administratrix of the estate
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3. CHUA KIM SWEE
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5. CHUA KIM HOON (Plaintiffs) Respondents

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IN THE PRIVY COUNCIL

No. 64 of 1960

ON APPEAL
FROM THE SUPREME COURT OF THE FEDERATION
OF MALAYA

B E T W E E N

CHUA CHEE CHOR alias Chua Boon Keng
(Defendant) Appellant

- and -

10

1. CHUA KIM YONG Administrator
of the estate of Chua Ah Chee
alias Chua Kee Peng deceased
2. KWONG KEH SAN (f) the
Administratrix of the estate
of Chua Kee Law deceased
3. CHUA KIM SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON (Plaintiffs) Respondents

RECORD OF PROCEEDINGS

No. 1

AMENDED STATEMENT OF CLAIM

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IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE HIGH COURT AT KUALA TRENGGANU

CIVIL SUIT No.29 of 1953

BETWEEN

30

1. CHUA KIM YONG the Administrator
of the estate of Chua Ah Chee
alias Chua Kee Peng, deceased
2. KWONG KEH SAN (f) the Administra-
trix of the estate of Chua Kee
Law, deceased
3. CHUA KIM SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON Plaintiffs

- And -

CHUA CHEE CHOR alias Chua Boon
Keng Defendant

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim.

31st October,
1953.

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim

31st October,
1953

- continued.

(1) Chua Kim Yong administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased, (2) Kwong Keh San (f) the Administratrix of the estate of Chua Kee Law, deceased, (3) Chua Kim Swee, (4) Chua Kim Yong and (5) Chua Kim Hoon, the above-named Plaintiffs states as follows:-

1. The first Plaintiff is the Administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased being L.A.No.8/53 and resides at No.77 Jalan Banggol, Kuala Trengganu. The second Plaintiff is the administratrix of the estate of Chua Kee Law, deceased being L.A. No.45/52 and resides at Gong Kapas, Kuala Trengganu. The third Plaintiff is a business-man and resides at 111, Jerteh, Besut. The fourth Plaintiff is a business-man and resides at 77, Jalan Banggol, Kuala Trengganu. The fifth Plaintiff is a business-man and resides at 62, Jalan Banggol, Kuala Trengganu.

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2. The Defendant is a business-man and resides at 232 Jalan Kedai Binjai, Kuala Trengganu.

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3. Chua Ah Chee alias Chua Kee Peng late of Kuala Trengganu died intestate on the 15th February 1942 at Singapore being killed by the Japanese Military Authorities, and hereafter shall be called "the deceased".

4. The deceased died leaving the following beneficiaries surviving him namely:-

- | | | | |
|--|---|-----|----|
| (1) Chua Kee Law | - | son | |
| (2) Chua Boon Keng alias
Chua Chee Chor | - | son | 30 |
| (3) Chua Kim Swee | - | son | |
| (4) Chua Kim Yong | - | son | |
| (5) Chua Kim Hoon | - | son | |

5. The widow of the deceased named Kong Kiah Law died before the deceased.

6. Chua Ah Poi a son of the deceased died before the deceased.

7. At the time of the death of the deceased, the deceased left properties as follows:-

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim

31st October,
1953

- continued.

(a) All Stock-in-Trade, Bicycles, bicycles accessories and all goods in the shop known as Chop Chua Ban Seng of 145, Kedai Binjai, Kuala Trengganu now known as 232, Jalan Kadai Binjai, Kuala Trengganu to the total value of \$45,000/-.

(b) 51 shares in the name of Chop Chua Ban Seng in Union Transport Company Ltd., Kuala Trengganu at \$100/- \$5,100.00.

10 (c) 14 shares in the name of Chop Chua Ban Send in Trengganu Bus Company, Kuala Trengganu at \$500.00 - total value \$7,000.00.

20 8. The deceased in the year 1941 intended to go to China and with him he took his eldest son, Chua Kee Law and left his business in No. 145, Jalan Kedai Binjai, Kuala Trengganu in the charge of his son, Chua Boon Keng alias Chua Chee Chor, the Defendant. While at Singapore he was shot by the Japanese Military Authorities.

9. Chua Kee Law returned to Kuala Trengganu, suffering from tuberculosis, and the shop of No.145, Jalan Kedai Binjai was under the entire management of the Defendant.

30 10. The Defendant refused to allow the Plaintiffs to participate in the business and refused to take out Grant of Letters of Administration to wind up and distribute the Estate of the deceased among the beneficiaries and was in charge of the estate as Administrator De Son Tort.

11. Grant of Letters of Administration of the estate of the deceased was granted to the fourth Plaintiff and is suing as such in the name of the first Plaintiff.

12. Grant of Letters of Administration of the estate of Chua Kee Law was granted to Kwong Keh San (f) his widow and the said Chua Kee Law died intestate leaving the following surviving him:

40 (1) Kwong Keh San - Widow
(2) Chua Geok Hong - daughter
(3) Chua Geok Choon - daughter
(4) Chua Geok Teng - daughter
(5) Chua Kin Tong - adopted son

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim

31st October,
1953

- continued.

and Kwong Keh San is suing as the legal representative of the estate of Chua Kee Law.

13. The Trengganu Bus Company was later made a limited Company and the shares in the Trengganu Bus Company was transformed into 70 shares at \$100/each, and subsequently the Trengganu Bus Company Limited was amalgamated with the Union Transport Company Limited and the shares in the two companies were transferred into 121 shares at \$100/- each.

14. Subsequent to the amalgamation, so far as the Plaintiffs are aware and to the best of their knowledge, the defendant as Administrator De Son Tort paid a further capital of \$12,100/- thus making a total share of 242 shares of \$100/- each making a total value of shares in the New Trengganu Bus Company Limited to the extent of \$24,200/-. All these shares except 51 shares now registered in the personal name of the Defendant at the instance of the Defendant.

15. During the Japanese occupation the Defendant with the profits made out of the business of the deceased purchased 3 pieces of rubber lands K.R.M.11, K.R.M.12 and K.S.L.301 Mukim of Kuala Brang and also a piece of land and a house on it being Lot No.330, Jalan Paya Bunga, Town of Kuala Trengganu, and these properties are held by the Defendant on trust for the deceased as the properties were purchased with the profits out of the deceased's estate and remained a trust resulting from the estate of the deceased.

16. The Defendant was and at all material times managed the said Chop Ban Seng which is still carrying on the business of Importer and Exporter of bicycles and bicycles accessories at 232 Jalan Kedai Binjai, Kuala Trengganu, (formerly known as 145 Jalan Kedai Binjai) and failed to account to the beneficiaries of the profit and loss of the said business.

17. Since the Grants of Letters of Administration made to the first and second Plaintiffs in spite of repeated requests the Defendant failed to submit accounts of the said Chop Chua Ban Seng or to hand over the business of Chop Chua Ban Seng to the First Plaintiff as Administrator of the estate of the deceased.

17-A. A list of the Plaintiffs document is attached.

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18. The Plaintiffs pray for the following:-

(1) A declaration that the business of Chop Chua Ban Seng of 145 Jalan Kedai Binjai, Kuala Trengganu now known as 232 Jalan Kedai Binjai Kuala Trengganu and the 242 shares in the Trengganu Bus Company Limited are the properties of the deceased.

(2) A declaration that all the shares now in the personal name of the Defendant are the properties of the deceased.

(3) A declaration that K.R.M.11, 12 and K.S.L. 301 Mukim of Kuala Brang and Lot 330 Town of Kuala Trengganu are the properties of the deceased.

(4) For an account of the profits of the lands K.R.M.11, 12 and K.L.S. 301 Mukim of Kuala Brang and Lot No.330 Jalan Paya Bunga, Kuala Trengganu.

(5) That the Defendant submit a true and proper account of Chop Chua Ban Seng since the date of the death of the deceased.

(6) That the Defendant be ordered to hand over the business of Chop Chua Ban Seng to the Administrator of the Estate of the deceased.

(7) That the Defendant be ordered to execute a valid transfer of all the 242 shares in the Trengganu Bus Company Limited to the Administrator of the Estate of the deceased.

(8) For payment to the Plaintiffs of all monies found due to the estate of the deceased.

(9) Such further and other relief as the Hon'ble Court may see fit to give.

(10) Costs of this action.

Chua Kim Yong Administratrix
of the estate of Chua Ah Chee
alias Chua Kee Peng, deceased.

Kwong Keh San (f)
Administratrix of
the estate of Chua
Kee Law, deceased.

Chua Kim Swee

Chua Kim Yong

Chua Kim Hoon.

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim

31st October,
1953

- continued.

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim

31st October,
1953

- continued.

We, Chua Kim Yong administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased, Kwong Kee San (f) administratrix of the estate of Chua Kee Law, deceased, Chua Kim Swee, Chua Kim Yong and Chua Kim Hoon, the abovenamed Plaintiffs, do hereby declare that the above statement is true to our knowledge and belief except as to matters stated on information and belief and to these matters we believe the same to be true.

Chua Kim Yong
Administrator

Kwong Keh San (f)
Administratrix.

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Chua Kim Swee

Chua Kim Yong

Chua Kim Hoon.

Dated this day of July, 1954.

Pleader for the Plaintiffs.

LIST OF PLAINTIFFS' DOCUMENTS

1.	Invoice dated	8.8.28	
2.	" "	8.28	
3.	" "	3.3.29	
4.	" "	16.10.29	20
5.	" "	10.11.29	
6.	" "	25.11.29	
7.	" "	3.12.29	
8.	Receipt	3.8.41	
9.	" "	3.8.41	
10.	Invoice	12.10.30	
11.	" "	5.3.31	
12.	" "	13.4.31	
13.	" "	28.4.31	
14.	" "	14.5.17	30
15.	" "	3.6.31	
16.	" "	22.4.54	
17.	" "	-	
18.	" "	3.10.53	
19.	" "	29.10.53	
20.	" "	29.10.53	
21.	" "	28.11.53	
22.	" "	28.11.53	
23.	" "	28.11.53	
24.	" "	8.12.53	40
25.	Letter	7.10.42	

	26.	Letter	10.2.54
	27.	Entry in a book at page	113
	28.	" " " " " "	117, 118, 119 & 120
	29.	" " " " " "	121 & 122
	30.	" " " " " "	123, 124, 125, 126 & 127.
	31.	" " " " " "	128, 129, 130 & 135.
	32.	Customs Declaration	No. 130/12
	33.	" "	No. 71/12
10	34.	" "	No. 39/11
	35.	" "	No. 91/11
	36.	" "	No. 105/11
	37.	" "	No. 161/11
	38.	" "	No. 160/11
	39.	" "	No. 162/11
	40.	" "	No. 200/11
	41.	" "	No. 227/11
	42.	" "	No. 25/12
	43.	" "	No. 68/12
20	44.	" "	No. 89/12
	45.	" "	No. 174/12
	46.	" "	No. 254/12
	47.	" "	No. 199/12
	48.	" "	No. 320/12
	49.	" "	No. 206/12
	50.	" "	No. 276/1
	51.	" "	No. 179/1
	52.	" "	No. 281/1
	53.	" "	No. 167/1
30	54.	" "	No. 171/1
	55.	" "	No. 166/1
	56.	" "	No. 168/1
	57.	" "	No. 78/12
	58.	" "	No. 284/1

In the
High Court at
Kuala Trengganu

No. 1

Amended
Statement of
Claim

31st October,
1953

- continued.

No. 2

No. 2

WRITTEN STATEMENT OF DEFENDANT

The Defendant abovenamed states as follows:

1. The Defendant admits paragraphs 1, 2, 3, 4, 5 and 6 of the Plaintiff.

40 2. In answer to paragraph 7 of the Plaintiff the Defendant denies that the business Chop Chua Ban Seng and its goods thereunto belonging at any time formed part of the estate of the deceased Chua Ah Chee.

Written State-
ment of
Defendant.

28th December,
1953

In the
High Court at
Kuala Trengganu

No. 2

Written
Statement of
Defendant.

28th December,
1953

- continued.

Chua Ah Chee had not the means to start such business at the time of its commencement. The Defendant started the said business without any aid from the deceased.

The Defendant was and is the sole proprietor of Chop Chua Ban Seng and is solely entitled thereto.

The Defendant states that at the time of the death of the deceased the said business had not in stock goods to the value of \$45,000/- but a much smaller amount.

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3. The Defendant states that the Union Transport Company Limited was not in existence in 1942. The Defendant was solely and beneficially the owner of the share in Union Transport Company Limited.

4. The Defendant denies that the deceased was entitled to 14 shares in the Trengganu Bus Company or its successors and assigns. The Defendant is solely and beneficially the owner of such shares.

5. The Defendant denies that the deceased had any business to leave in his charge as alleged in paragraph 8 of the Plaintiff.

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6. As regards paragraph 10 of the Plaintiff the Defendant states that he was the sole proprietor of Chop Chua Ban Seng pre-war. Such business came to an end during the Japanese occupation.

7. After the liberation the Defendant started and carried on a new business and neither the estate of the deceased nor the Plaintiffs have any claim valid in law or equity to the said business.

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8. As regards the allegations contained in paragraphs 13 and 14 of the Plaintiff the Defendant states that the sums of money paid by the Defendant for shares did not form part of the estate of the deceased.

9. In answer to paragraph 15 of the plaintiff the Defendant bought the 3 pieces of land from profit made by speculations in Singapore and Siam.

10. As regards paragraphs 16 and 17 of the Plaintiff the Defendant states that he is solely and beneficially the owner of both the old and new business known as Chop Chua Ban Seng and the goods and profits thereof and is not accountable to the Plaintiffs

40

or persons claiming through or under them.

11. Save as is hereinbefore expressly excepted the Defendant denies each and every allegation of fact in the statement of plaint as if the same were separately set forth and traversed seriatim.

12. The Defendant therefore prays that this suit may be dismissed with costs.

Defendant's Signature.

Defendant's Solicitors.

In the High Court at Kuala Trengganu

No. 2

Written Statement of Defendant.

28th December, 1953

- continued.

10 I, Chua Chee Chor, the Defendant abovenamed hereby declare that the above statement is true except as to matters stated on information and belief and as to those matters I believe it to be true.

Dated this 28th day of December 1953.

Signature.

No. 3

OPENING SPEECH FOR THE PLAINTIFFS (Respondents)

20 Braga opens - This is an administration action against a brother who is administrator de son tort. Suit could have been brought only by 1st plaintiff. The deceased's business was registered in the name of defendant in 1947 while plaintiff was in China. The main issue is whether the deceased Chua Ah Chee was the sole owner of Chop Chua Ban Seng now Chop Ban Seng at the time of his death. The other issues pleaded are subsidiary. If we fail on the major issue the whole of plaintiffs' case fails. Should we succeed the next issue is what property was acquired from the profits. This is a matter for
30 Registrar to enquire.

Ironside - Plaintiffs to prove the whole allegations in the Plaint. They are connected together. However no objection to major issue being taken first.

By consent Bundle of Plaintiffs' documents are marked Ex.P.l.
" " defendant's " " Ex.D.l.

x x x x

No. 3

Opening Speech for the Plaintiffs (Respondents)

6th October, 1954.

In the
High Court at
Kuala Trengganu

No. 4

EVIDENCE OF CHUA KIM YONG

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.
Examination.

1st plaintiff - CHUA KIM YONG a/s in Hinghua. 34 years old. Son of Chua Ah Chee alias Chua Kee Peng. I was born in China. The eldest son of Chua Ah Chee was Ah Poi, next Kee Law who is now dead. 2nd plaintiff is his administratrix. 3rd son is defendant. 4th is 3rd plaintiff: 5th is myself, 6th is 5th plaintiff.

My father came out to Malaya from China first followed by Ah Poi and Kee Law. Then 3rd plaintiff and my deceased mother came out followed by defendant. I came out last. 5th plaintiff was born in Trengganu.

10

I was about 8 years old when I came out. It was in 1930. When I arrived in Trengganu, he was the owner and running Chop Ban Seng dealing in bicycles. I attended Chinese and Grammar Schools. I assisted my father in running the business when I was 14 years. My other brothers also assisted in the business. I assisted up to the Japanese occupation.

20

I and 5th plaintiff signed cash receipts and customs declarations.

Just before the fall of Malaya my father went to Singapore accompanied by Kee Law, Kim Hoon and Kee Law's wife. My father was killed in Singapore.

Kee Law returned to Trengganu.

During the Japanese occupation the business continued. It was managed by defendant. I, 3rd plaintiff, Kee Law and the defendant signed the documents. Kee Law was suffering from T.B. when he returned from Singapore.

30

I went to China in 1946 to take my father's bones to China as suggested by the defendant and other members of the family. When I was in China 5th plaintiff came there. In our absence from Trengganu defendant looked after the business. I returned in 1948 to Trengganu. I then took part in the management of the business.

40

All members of the family stayed in the same premises as the business shop which was at No.145 Kedai Benjai and later changed to No.232. Before 1930 up to 1938 the shop No. was 164.

I suggested to members of the family that the business and profits be divided among the brothers. The defendant said that there was no hurry for that as the government was then under B.M.A. and was not settled. Some time later we raised the same question again to which the defendant gave the same reason.

10 I did not know that in my absence the business had been registered in the defendant's name. I came to know of it in 1953. From the time I returned from China till 1953 I made the suggestion 5 times to defendant.

20 On knowing that the business was registered in the defendant's name I and 3 others wrote to the Registrar of Business. I then applied for Letters of Administration to the estate of my deceased father. I asked defendant about the division of the business before writing to the Registrar. He said the business was his and was registered in his name. After this he had a quarrel with me and my other brothers whenever we spoke of the business. He threatened to assault me with a knife for which I reported to the Police.

I removed from the premises in 1952. I commenced this suit after obtaining the Grant of Letters of Administration.

30 I produce Cash Sale Book of Chop Ban Seng from 14th of July of 28th year of Chinese Republic (1939) till 30th August of same year tendered and marked Ex. P2. Pages 1, 2 & 16 of Ex. P1 are from Ex.P2.

The signatures of 3 brothers appear in Ex.P2. Page 1 of Ex.P2 is signed by 3rd plaintiff. Page 2 is signed by myself. Page 16 is chopped and not signed.

I produce another Cash Sale Book from 13th February 1940 to 1st April 1940 (Chinese Republic year for 1940 is 29), tendered and marked Ex.P3.

Page 3 of Ex.P1 comes from Ex.P3. It was signed by Kim Swee. It was signed by 3rd plaintiff and the defendant.

40 Page flagged X of Ex.P3 is signed by the defendant.

I produce another Cash Sale Book from 15th September 29th year (1940) to 3rd December of same year, marked Ex.P4. Ex.P4 contains signatures of 4 brothers. Page 4 of Ex. P1 comes from Ex. P4. It is signed by Kee Law. Page 5 of Ex.P1 comes from Ex.P4.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.

Examination
- continued.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.
Examination
- continued.

It is signed by 3rd plaintiff. Page 6 of Ex.P1 comes from Ex. P4. It is signed by Kee Law. Page 7 of Ex.P1 comes from Ex.P4. It is signed by 3rd plaintiff. Page flagged X of Ex.P4 is signed by the defendant.

I produce another Cash Sale Book from 13th September of 30th Chinese year (1941) to 2nd July of 17th year of Showa. I know that year corresponds to 1942 - marked Ex.P5.

Page 10 of Ex. P1 comes from Ex.P5. It is dated 12th October of 30th year of Chinese Republic, (1941). It is written "Chua Ban Seng". Page 11 of Ex.P1 comes from Ex.P5 dated 5th March in 31st year (1942) and signed by me. Page 12 of Ex.P1 also comes from Ex.P5 dated 13th April of 31st year and signed by 3rd plaintiff. Page 13 of Ex.P1 comes from Ex.P5 dated 28th April of 31st year signed by me. Page 14 of Ex.P1 comes from Ex.P5 dated 14th May of 17th Showa (1942) and signed by 3rd plaintiff. Page 15 of Ex.P1 comes from Ex.P5 dated 3rd June of 31st year as well as in figures 3/6/02.

10

20

Page flagged X in Ex.P5 is dated 7th November in the 30th year of Chinese Republic (1941). It is signed by the defendant.

I produce a bundle of 7 bills, 2 letters and 1 receipt, marked Ex.P6. Pages 17 to 26 of Ex.P1 comes from Ex.P.6. Page 17 is a bill signed by the defendant dated 6.9.53. Page 18 is a bill signed by the defendant dated 3.10.53 and so pages 19, 20, 21, 22 and 23. The address of each of those bills is No.232 Kampong China over which is the signature of Chua Boon Kim who is the defendant. Page 24 is a receipt dated 8.12.53 in the name of Chua Ban Seng and signed by the defendant. Page 25 is a letter dated 7th October of 42nd year of Chinese Republic (1953) addressed to Chop Teck Hong and signed by the defendant. Chop Teck Hong are bicycle dealers in Kelantan. Page 26 is a letter dated 10.2.54 addressed to Kim Hoon and signed by Chop Hock Hoe bicycle dealers in Kota Bharu.

30

40

I produce an A/c book in Chinese of Chop Ban Seng from 10th August 1941/30th year till 26th Feb/04, marked Ex.P7.

Page 27 of Ex.P1 are from page 113 of Ex. P7. It is all in defendant's handwriting. Page 117 which is equivalent to Page 28 is dated 15th Feb. of 31st year of Chinese Republic (1942) is in the handwriting of myself and the defendant. Page 118 is blank. Page 119 is dated 15th July (no year) written by 3rd plaintiff and the defendant. Page

50

120 is dated 29th August 02 up to 7/7/03 is in the handwriting of defendant and myself. There are entries on that page in Romanised Malay written by a Malay. Page 121 is dated 13th April in 31st year of Chinese Republic and is an a/c of a hirer named Teo Poi guaranteed by Iau Peck Tin Chop Kian Hin and is in the handwriting of myself and the defendant. Page 122 is in the handwriting of myself and the defendant dated 4.10.02. There is a writing in Romanised Malay thereon by a debtor with a Chinese translation which was written by Tan Yew Eng. Page 123 is dated 6th May Showa 17 showing the a/c of Lim Keng Diang and is in the handwriting of myself and the defendant. Page 124 is blank. Page 125 is a purchase of a bicycle by Malay magistrate, Ishak and is dated 2nd May with no year in the handwriting of the defendant. Page 126 is an entry in Romanised Malay of a purchase of a bicycle by a post-man named Lim Meng Kit and is dated 3/6/2602. Page 127 is written by me and the defendant. Page 128 relates to Boon Lim's a/c in the handwriting of the defendant dated 7th July with no years. Page 129 is dated 11th August in defendant's handwriting. Page 130 is purchase of a bicycle by a Ceylonese dated 12th March Showa 18 written by defendant. Page 135 is a/c of Sin Eng Kee dated 26th February 2604 and was written by the debtor himself.

I got the Cash Books and the A/c Book from Chop Ban Seng when a receiver was appointed to the business. It was 15th December 1953.

Q. Were there any a/c books beside the books you got?

A. I did not see.

Q. On the day you took the books do you know if there were other books in use?

A. Yes. I could not find other a/c books in the shop.

Pages 32 to 58 of Ex. P1 are Customs Import declarations from 7/12/50 to 21.1.52. They were in relation to imports by Chop Chua Ban Seng. These are counterfoil copies endorsed by the Customs - marked "Z" for identification. Pages 32 to 36 are signed by 5th plaintiff, pages 37, 38, 39, 40, 41, 42 are signed by me with rubber chop of Ban Seng. Pages 43, 44 and 45 were signed by me with no chop. Pages 46, 47, 48 and 49 were signed by me with the chop. Pages 50 to 58 were signed by 5th plaintiff without chop.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.
Examination
- continued.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.

Examination

- continued.

I produce a group photograph of the family on the occasion of 3rd plaintiff's wedding. It was in 1936. Photograph tendered, not objected to, admitted and marked Exhibit P8. Standing in the back row from left to right are Kee Law (deceased), defendant and 3rd plaintiff. In the middle row is 5th plaintiff, 4th is our deceased father, 5th is Ah Poi (deceased) and 6th is myself. In the front row is Chua Thiam Teck who is Ah Poi's son. Exhibit P8 was taken in the front portion of Chop Ban Seng. It shows the shop number 164. 10

Adjourned at 5.40 p.m. to 10 a.m. tomorrow.

Sd. A. Hamid
6/10/54.

Resumed on 7.10.54 at 10 a.m.

Parties as before.

1st plaintiff reaffirmed in Hokkien.

Examination-in-chief continued. I produce another group photo: of the family taken in 1934, tendered, not objected to, admitted and marked Exhibit P9. In the back row from left to right the males are Ah Poi, Kee Law, defendant. In the middle row are myself, my father, 3rd plaintiff. In the front row, 5th plaintiff and Thian Teck who is Ah Poi's son. 20

I produce a leaf from the Cash Sale Book of Chop Chua Ban Seng when it was at 164 Kedai Banjai.

I produce a letter-head of Chop Chua Ban Seng at No.145 Kedai Banjai and also a letter-head of Chop Chua Boon Gim at No.145 Kedai Banjai. The present day chop of that business is Ban Seng without the Chua. All 3 tendered, not objected to, admitted and marked Exhibits P10, P11 & P12. The chop has a sign-board now bearing Ban Seng. It has been changed to Ban Seng during the B.M.A. time 30

Cross-
examination.

CROSS-EXAMINATION

Cross-examined by Ironside. I had very little education. I attended Chinese School and Grammar English School at the latter I learned English. I can understand English a little. I can understand you (Mr. Ironside). I can read and write English a little 40

My father was the first among my family to come to Trengganu, next was Ah Poi. Ah Poi did not

become ill as soon as he came out. I came out after Ah Poi. When I came out Ah Poi was well. Ah Poi returned to China within about 2 years of his coming out because he was sick. He returned to China with the defendant. It is true that when the defendant first came out, it was Kee Law, 3rd plaintiff and my mother.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

10

It is not true that the defendant came out after Ah Poi returned to China. The defendant came out in 1938.

Chua Kim Hong.

Ah Poi came out to Malaya together with Kee Law. I do not know in what year Ah Poi first came out. No one else accompanied Ah Poi and Kee Law. 3rd plaintiff came out with my mother in what year I do not know.

Cross-
examination
- continued.

I came out when my age was 8 years. I said before it was in 1930 when I came out. I am not asserting things which I imagine had happened. I now know everything.

20

The defendant is older than the 3rd plaintiff. Kee Law left China before the defendant. It is not true that Kee Law, my mother and 3rd plaintiff came out together.

Ah Poi returned to Trengganu in 1930. He went once to Java about 1 year of his coming out again to Trengganu. He was away in Java for how long I cannot remember. I now say he was away for 2 or 3 months.

30

Ah Poi did not start a business in Java. He went there to recuperate his health. It is not true that he was away in Java for about 2 years.

All members of the family lived on the same premises. It had been so all along till 1952.

40

Ah Poi had a business which was a branch of Chop Chua Ban Seng, at No.13 Jalan Kampong Daik in Kuala Trengganu. He carried on that business till 1938. Kee Law did not carry on the business which was conducted by Ah Poi. Kee Law went to those premises. Ah Poi stopped carrying on the business in 1938 because of his illness. That business did not close down when he stopped. My father and Kee Law visited that shop by turn. The name of the business was Ban Seng Leong. It is still in existence and being run by Ah Poi's son. It is no longer a branch of Ban Seng; it was given to Ah Poi's son in 1952.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.

Cross-
examination
- continued.

There is a business by the name of Chop Ban Seng Hin at No.10 Padang in Kuala Trengganu. Kee Law and brothers ran it. It is also a branch of Chop Ban Seng. Now it is no longer in existence. It ceased to exist in 1941 at the time of the Japanese Occupation. Kee Law and the defendant stayed on the premises by turn before 1941. Usually the turn was 2 to 3 nights. No one else apart from our family lived there. Chua Ban Seng rented the whole premises. There were two employees living on the premises. My father started that branch when I was about 12 years old. Kee Law was first in charge of that business; he lived there without his wife and children. Kee Law was in charge till the Japanese Occupation in 1941.

10

Now Ah Poi's son occupies No.13 Jalan Kampong Daik. He has been in occupation since 1951. The defendant occupied it since the Japanese Occupation with his wife and family. In 1946 the defendant moved back to No.232 Kampong China.

20

During the whole of the Japanese Occupation defendant lived in No.13 Jalan Kampong Daik with his wife and family. Kee Law's widow and 3rd plaintiff lived in No.13 Jalan Kampong Daik in 1946. Kee Law's widow remained there till 1949 when she removed to Chop Ban Seng. After 1949 Ah Poi's widow and her children lived at No.13. Ah Poi's son lived from 1951. Before 1941 I stayed at No.13 with my wife and children. I stayed there in 1940 and 1941; before that Chua See Tiong, who was a relative as well as an employee, lived there for 5 or 6 years and before that Ah Poi lived there with his wife and children since the opening of the business. Ah Poi left the country in 1938 for China. Ah Poi lived there till he left for China. I now admit that all the family did not live all along in No.164. All the rest except Ah Poi and his family lived in No. 164.

30

There was a shop in Jerteh known as Sin Ban Seng before the Japanese occupation. 3rd plaintiff managed that shop. It was opened in 1940. 3rd plaintiff lived in that shop. He had no wife. That shop did not belong to 3rd plaintiff. He has no shop now in Jerteh.

40

There is a shop known as Ban Seng in Jerteh. It belongs to 3rd Plaintiff.

Q. Why did you say 3rd plaintiff has no shop in Jerteh?

A. I said he did not have one pre-war.

3rd Plaintiff moved into that shop at Jerteh when it was opened in 1940. At the time of the liberation 3rd plaintiff started business again in Jerteh. He does still carry on business there.

In the
High Court at
Kuala Trengganu

Q. When did he have the money to start business at Jerteh again?

Plaintiffs'
Evidence

A. He got a loan from somebody.

No. 4

Q. From the defendant?

A. No.

Chua Kim Yong.

10 Q. From whom?

A. His friend whose name I do not know.

Cross-
examination
- continued.

I do not know at all from whom he got the loan.

20 5th plaintiff is now in business at No.62 Jalan Banggol in Kuala Trengganu. He started the business in 1952. From tontine money 2 of the tontines in Trengganu and one in Singapore. 5th plaintiff ran the tontines. I know he borrowed money from a hospital employee named Ah Moi. He borrowed \$2,000/-. He did not borrow money from the defendant. He is now living at No.62 Jalan Banggol with his family.

I am now living at No.77 Jalan Banggol. I have a Business. Up to 1951 I was cashier and later Manager to Trengganu Bus Co. Then I work in the shop of Chua Ban Seng. My own shop bears my own name. I borrowed money from people to start business. I took credits from people too. I borrowed \$2,000/-. I did not borrow from defendant.

I worked in Chop Chua Ban Seng in 1951 and 1952. I knew all about the business.

30 In 1952 I knew that a civil suit was instituted against the defendant and Chop Chua Ban Seng. I know all about the suit. I did not read the Plaintiff and the Defence. I was not allowed by the defendant. He refused to show them to me. At the time this suit started I went to K.L. to see a solicitor, Shearn & Delamore; I asked them to act on behalf of the defendant on defendant's instructions. I engaged S. & D. to act on defendant's behalf. I went alone to S. & D. The defendant was then recovering from illness. I did not bring back the S/Defence for defendant's signature. I did not explain the S/Defence to the defendant. The Plaintiff was sent to S. & D. first. I went to S. & D. to explain everything S. & D. wanted to know. Then S. & D. drew up the defence.

40

At this stage Court adjourned for 5 minutes.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 4

Chua Kim Yong.
Cross-
examination
- continued.

I knew what was being claimed against the defendant. The suit was No.6 of 1952 of this Court. The plaintiff was Chua Teng Teck who is Ah Poi's son. The claim therein was in short that Ah Poi was a partner of the defendant in Chop Ban Seng. I do not know what the defence was.

Q. You knew what the defence and the whole family knew what the defence was?

A. I did not know.

(Ironsides applies that the Court refers to the file.)

10

I deny that I explained the S/Defence to the defendant in the presence of a clerk in the defendant's firm. I know this man (Koh Cheng Ann identified). (Braga informs Court this man was in Court all day yesterday and this morning till the Court adjourned.)

My father was the owner of Chop Chua Ban Seng. He personally managed the business till he went to Singapore at the end of 1941. He started his life in Malaya as a rickshaw-puller till he started the business of Chop Chua Ban Seng. I do not know anything till I arrived from China. When I came out I learned that my father started the business. I know that my father stopped pulling rickshaw when I arrived from China. My father brought me out from China.

20

When the Japanese arrived in Trengganu, there were 200 odd bicycles in the shop and not 30 to 40 bicycles. There were bicycles upstairs and downstairs. The Japanese arrived on 15th Dec. 1941. They did not take bicycles from the shop. When the Japanese came the bicycles were all taken upstairs. The Japanese took old bicycles which were left downstairs. I do not know if the Japanese took bicycles from other bicycle shops. All the other bicycle shops were repairers and not dealers. I do not know if they had bicycles taken from their shops. Apart from some old bicycles my shop was intact. The Japanese came to my shop and took away the old bicycles. The Japanese did not search my shop. It is not true that the shop was particularly noted by the Japanese. When the Japanese administration was settled the bicycles were sold out gradually.

30

40

I produce some Cash Books some extracts from which were translated.

I was 20 to 21 years old when the Japanese came.

I stayed at No. 164. I had to help in the business. Whenever I conducted a sale I signed the Cash Book. Apart from those items in the Cash Books which have been brought to the notice of the Court the items were mostly signed by the defendant.

The person who collects the goods from the Customs would have to sign the Customs Import declaration. Anyone available among us would be sent out to collect the goods from the Customs.

10 Adjourned at 1.05 to 2.15 p.m.

Sd. A. Hamid.

Resumed at 2.15 p.m.

Last witness stood down for evidence of next witness.

No. 5

EVIDENCE OF DAVID BANWELL

20 P.W.1. - DAVID BANWELL a/s in English. Customs Officer, Kuala Trengganu. Consignees or agents of consignees who are approved by the Customs Department can sign Import Declarations.

30 "Z" are some copies of Import Declarations. They are all chopped and signed by the Customs Officers i/c of the Customs warehouse. I have a large proportion of the originals of those copies. Those which I can find are with me. Those in "Z" which I have checked are genuine copies of Import Declarations. They all however appear to us to be genuine duplicate copies. They are carbon copies. The practice now is to have the declarations made in 2 copies for non-dutiable and 4 copies for dutiable imports.

By consent "Z" is now marked as Ex. P.13.

CROSS-EXAMINATION

Cross-examination by Ironside. The importer or consignee may authorise anybody to act as agent for him with the approval of the Customs. An application in writing has to be made to the Customs by the importer or consignee authorising an agent to sign the

In the High Court at Kuala Trengganu

Plaintiffs' Evidence

No. 4

Chua Kim Yong.

Cross-examination - continued.

No. 5

David Banwell. Examination.

Cross-examination.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 5

David Banwell.

Cross-
examination
- continued.

Re-examination.

Declaration Forms. Such application must be accompanied by a specimen signature of the agent. We keep a file of agents who are approved by the Customs. I should be able to produce the file but Ex. P13 happened before my time. We do not verify the authenticity of the person who claim to appoint the agent. This practice is required under the new Order which came into force in May 1953.

RE-EXAMINATION

Re-examination. Pages 37 to 42 of Ex.P13 bear the Chop Chua Ban Seng, proprietor, and signature in Chinese. 10

At this stage Braga says that his instructions are that 1st plaintiff does not quite follow the interpretation of the Interpreter.

x x x x

No. 6

No. 6

Chua Kim Yong.

Cross-
examination
Continued.

CROSS-EXAMINATION of CHUA KIM YONG Continued.

1st plaintiff on former affirmation.

Cross-examination continued. I have myself submitted Income Tax return when I was the Bus Co. Manager and not after that. The defendant submitted the Income Tax returns for Chop Ban Seng. I am sure that defendant signed and submitted those returns but I do not know it as a fact. 20

I never received any communication from the Income Tax Office regarding Chop Ban Seng. I did not have free access to everything in the shop while I was at Chop Ban Seng. I was constantly in Chop Ban Seng up to 1952.

From 1948 I made repeated requests for the business to be divided. I did not take any action in respect of this present suit till some time in 1953. 30

Q. Are you aware that 3rd plaintiff (Kim Swee) owes a sum exceeding \$7,000/- to the defendant?
(Objected to by Braga; it is so direct a question Ironside will put in another way).

I do not know if 3rd plaintiff owes anyone any money. I do not know if 3rd plaintiff owes the defendant money. I know from 3rd plaintiff that defendant claimed payment from him.

I can recognise 3rd plaintiff's signature.

10 At this stage Braga informs Court that he objects to any document alleged to be signed by 3rd plaintiff purporting indebtedness as not relevant to issue. On the production of the bundles of documents I distinctly agreed to the bundles going in subject to the use of documents that would be relevant to this major issue.

Ironsides - what I am going to show is the reason as I see it for this action being brought at all. I am producing before the Court a document signed by one of the plaintiffs whose signature witness can recognise. It is a document which will tend to show the acknowledgment of the proprietorship of the chop in dispute. SS 14 Ev: Ordee.

20 Braga - I cannot see how the document is relevant to the issue

Objection over-ruled.7

The signature on this document (shown to witness) does not look very much 3rd plaintiff's - marked "Y" for identification.

The signature on this document (shown to witness) does not look like 3rd plaintiff's but the writing is that of the defendant - marked "X" for identification.

30 The signature on this document (shown to witness) does not look like 3rd plaintiff's but the writing is that of the defendant - marked "W" for identification.

3rd plaintiff told me that he received a letter from the defendant demanding payment of a sum exceeding \$7,000/-. He told me of it at end of 1952. It was after the receipt of that letter that trouble started among the brothers; there was also trouble before that among us.

40 3rd plaintiff, 5th plaintiff, Kee Law's widow and I visited the defendant after the receipt of the letter by 3rd plaintiff. 5th plaintiff and I did not owe the defendant any money.

In the High Court at Kuala Trengganu

Plaintiffs' Evidence

No. 6

Chua Kim Yong.

Cross-examination

- continued.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 6

Chua Kim Yong.

Cross-
examination

- continued.

I had to pay "tea-money" when I started my shop. That money was not advanced by the defendant.

Before the receipt of the letter by 3rd plaintiff we made a claim against the business of Chop Ban Seng.

Chop Ban Seng was the sole agent in Trengganu for Robinson's Raleigh bicycles and other makes of bicycles.

I am not aware that Chop Ban Seng had been warned by Robinsons for selling their bicycles outside Trengganu.

10

I am not aware that some of the bills were put in the personal name of the defendant so as to defeat the prohibition of Robinsons.

I have never seen this letter before (shown to witness. Read out by witness. I can follow him but not well). Marked "V" for identification.

I at times interpreted English correspondence to the defendant.

I do not know if the contents of each document in Exhibit P6 have been entered into Chop Ban Seng's books.

20

Q. When was the Union Transport Company formed?
/Objected to by Braga because not relevant to the Major issue.

Ironside - relevant to impeach the credibility of the witness.

Objection over-ruled.7
A. 1946, 1947.

I meant in paragraph 7(b) of my S/Plaint that the 51 shares in the Union Transport Co. belonged to Chop Chua Ban Seng. It was derived from my father's money. I did not witness any transfer of Bus Co. shares from Chop Ban Seng to the defendant.

30

I see this document (shown to witness page 9 of Ex. D.1). It is a transfer to the defendant of some shares which are not included in my claim.

I did not receive any salary when working in Chop Ban Seng. I was provided with free board and lodging for myself and family.

40

I witnessed Page 9 of Exhibit D.1.

Ah Poi had a shop, Kee Law had a shop, Kim Swee (3rd plaintiff) had a shop, all branches. It is not true that the defendant was the first to start a shop.

Within a short time of his return from China Ah Poi was in a shop known as Ban Seng Leong. Kee Law's shop was Ban Seng Hing which was opened not very long after he came out.

10 Now I, 4th plaintiff and 5th plaintiff have each a shop except the defendant. Ah Poi's son has the shop which Ah Poi had.

There are now no more branches. During the occupation all the goods from the branches were removed to Chop Chua Ban Seng.

(Adjourned at this stage for 15 minutes)

x x x x

RE-EXAMINATION

20 Re-examined. 5th plaintiff started his business not on tontine money but from goods obtained on credit from Teck Seng of Singapore and Chin Hin of Trengganu.

(Interpreter admits that it was his mistake in using the word tontine because of the similarity of pronunciation of "Huay" which can mean goods or tontine money.)

There was a similar mistake in relation to how I obtained money to start my business.

The other man from whom 5th plaintiff obtained goods on credit in Trengganu was Tai Seng.

30 I obtained goods on credit from Teck Seng of Singapore and Hock Sin Leong of Kuala Lumpur.

Adjourned at 2.30 p.m. to 13/11/54.

Sd. A. Hamid
7/10/54.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 6

Chua Kim Yong.

Cross-
examination
- continued.

Re-examination.

In the
High Court at
Kuala Trengganu

In open Court this 22nd day of August, 1955
Before me,
Sd. A. Hamid
Judge.

Plaintiffs'
Evidence

Resumed from 7.10.54.

No. 6

Maidin for Plaintiffs.
Ironsides for defendant.

Cross-examination resumed.

Chua Kim Yong.

P.W.1. recalled by Ironsides.

Cross-
examination
- continued.

Re-affirmed. I first came to know that defendant had shares in his own name in Trengganu Bus Co. Ltd. in 1950. I represented the defendant at meeting of the Trengganu Bus Co. Ltd. on many occasions. I knew that the shares in defendant's name. I did not know about the shares in the two previous bus companies. 10

I was not aware of the letters written to the defendant by the Income Tax Commissioner. I translated business letters for the defendant. I did not translate 1 & 2 of Exhibit D.1. Defendant did not show me letters from the Income Tax to him. 20

I started my own business in 1952. I see this document (shown to witness - objected to by Maidin.

Ironsides - No absolute bar to a document being produced at the trial because party has failed to disclose it before. If notice is required 10 minutes would be quite sufficient. Admission or denial.

Maidin - 0.3 r.7 East Coast Rules.
0.12 R.3 do. 30

I disallow the document to be admitted at this stage.)

I did not make out a list of items which I obtained on credit for the defendant nor another list for further goods.

Re-examination.

RE-EXAMINATION

By Maidin. I was shown all the business correspondence by defendant but not correspondence in relation to Income Tax.

Trengganu Bus Co. was formed in 1939. Defendant 40

had no shares at all in Trengganu Bus Co. Kee Law had 14 shares therein. After the liberation those 14 shares were in the name of the defendant (Objected to by Ironside because this did not arise out of the cross-examination. Maidin - it does arise out of the first question - objection over-ruled). Those 14 shares were put into the Trengganu Bus Co. Ltd. in the defendant's name.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 6

10 Subsequently I did not know that defendant bought shares of Trengganu Bus Co. Ltd. in the name of Chop Chua Ban Seng.

Chua Kim Yong.
Re-examination

- continued.

9 in Exhibit D.1. refers to sale of bus route. Kong Ah Hock was allowed to operate taxi service between Kuala Trengganu and Jerteh. Kong Ah Hock had no shares at all in the Trengganu Bus Co. Ltd.

I explained to S. & D. that Chua Teng Teck was not entitled to claim from Chop Chua Ban Seng because C.T. Teck's father predeceased my father.

20 Defendant gave the business of the branch to Chua Teng Teck in 1952 for what reason I do not know. Defendant had no right to give it. The goods for that business were ordered from Singapore by Chop Chua Ban Seng.

During B.M.A. Chop Chua Ban Seng was changed Chop Ban Seng. The sign-board of Chop Chua Ban Seng was bombed by the British. The Signboard of Chop Ban Seng was put up after the death of Kee Law.

No. 7

No. 7

EVIDENCE OF KWONG KEH SAN

Kwong Keh San
Examination.

30 P.W.3. - KWONG KEH SAN a/s in Hokkien. 44 years old living at Chop Chin Hin with my married daughter. Widow of Chua Kee Law and his administratrix.

I was in Singapore when Chua Ah Chee died. I went to Singapore then to return to China with Chua Ah Chee, Chua Kee and Chua Kim Boon. I did not leave for China because of the Japanese occupation.

Chua Ah Chee was buried in Singapore.

I came out from China to Trengganu about 23

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 7

Kwong Keh San.
Examination
- continued.

Cross-
examination.

years ago with my husband. In Trengganu I stayed at Chop Chua Ban Seng with 3rd plaintiff, 4th plaintiff and 5th plaintiff. Ah Poi and his wife were also there. Chop Chua Ban Seng belonged to Chua Ah Chee. I lived there for about 20 years. My husband told me that Chua Ah Chee was the owner. I saw Chua Ah Chee looking after the business; he managed the business.

I returned to Trengganu with my husband after the death of Chua Ah Chee. When I returned I saw the defendant and co-plaintiffs on the premises of Chop Chua Ban Seng. My husband jointly managed the business with all the other brothers. My husband and the defendant managed the business most.

10

CROSS-EXAMINATION

Cross-examined. I do not know if it was in 1952 I arrived in Trengganu but it was about 23 years ago.

Chop Ban Seng Hin I remember. It was carried on in Padang. I do not know who opened that business. I do not know that it was opened shortly after my arrival in Trengganu. I do not know who ran that business.

20

Q. What do you know about Chop Ban Seng Hin?
A. I know it was a bicycle shop.

I cannot say if my husband worked there or not. My husband was sick at the time. He was sick for 2 to 3 years before his death. I do not remember if he died in 1946 but it was after the liberation.

Chop Ban Seng Leong I have heard. It was at Jalan Kampong Daik. I had been there. My husband was sick in Ban Seng Leong. I went there to look after him. I stayed there for 1½ months. I went there off and on during his illness. After his death I stayed there for 1½ months. He was there for about one year during his illness. After his return from Singapore he stayed at Chop Chua Ban Seng.

30

Throughout the occupation all members of Chua Ah Chee's family including myself lived at Chop Chua Ban Seng.

40

3rd plaintiff's wife stayed at Chop Ban Leong during the occupation. She stayed there to accompany me and so did some others off and on

3rd plaintiff's wife lived there throughout the occupation. No others lived there permanently. 4th plaintiff came there off and on and so did 5th plaintiff.

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5th plaintiff married during the Japanese occupation at Chop Ban Seng Leong. After his marriage he removed to Chop Chua Ban Seng. Before his marriage he did not live at Chop Ban Seng Leong.

Plaintiffs'
Evidence

No. 7

10 I do not know who opened or ran Chop Ban Seng Leong. I do not remember when Ah Poi moved out of Chop Chua Ban Seng. I do not remember when Ah Poi returned to China. I do not know if my husband had an interest in Chop Ban Seng Leong I did not enquire.

Kwong Keh San.

Cross-
examination.

- continued.

Chop Ban Seng Hin I do not know if it was the property of my husband. I took no interest in my husband's affairs at all. My husband moved to Chop Ban Seng Leong when he was sick.

20 Chua See Teong I remember. He was staying with me when he arrived from China. Then he moved out. Two years before the Japanese occupation he moved out, telling me, to Tanjong. I do not know that he went to Ban Seng Leong.

I do not know if Ah Poi gave a Power of Attorney to my husband when he left for China. I do not know that my husband put Chua See Teong in charge of Ban Seng Leong. I do not know that 4th plaintiff took over Ban Seng Leong before the occupation.

30 I admit I know almost nothing. I am in this suit because I am administratrix of my husband's estate. No one told me to take out Letters of Administration to my husband's estate.

RE-EXAMINATION

Re-examination.

40 Re-examined. I made a report to the Police to the effect that I have no one to maintain me because defendant refused to maintain me. I was working for defendant as cook without remuneration. I worked for him because my husband had a share in Chop Chua Ban Seng. I demanded my husband's share from defendant. He refused to give me. As a result of that he drove me out of the shop, so I lodged the report. I was advised to go to Social Welfare

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Plaintiffs'
Evidence

No. 7

Kwong Keh San.

Re-examination
- continued.

Dept. I went. 3rd, 4th, 5th plaintiffs, defendant and Ah Poi appeared at the Social Welfare Dept. A conference was held there. All the plaintiffs and the defendant were advised to maintain me but the defendant refused. Then I went to work in Chop Chin Hin which is a bicycle shop. I became administratrix about 4 years ago. I was taken to Court by the Social Welfare Officer about 20 days after the conference. I saw 1 Malay Officer in Court. As a result I filed my Petition for Letters of Administration. No one suggested to me to file this suit.

10

My husband was suffering from cough for 2 to 3 years. He moved out of Chop Chua Ban Seng to Kampong Daik because his room was hot and it was cooler at Kampong Daik. There was no other reason for moving out.

Adjourned at 12.40 p.m. to 2 p.m.

Sgd. A. Hamid.

Resumed at 2 p.m.

No. 8

Chua Kim Swee.
Examination.

No. 8

20

EVIDENCE OF CHUA KIM SWEE

P.W.4. - CHUA KIM SWEE a/s in Hokkien. 34 years old. Bicycle dealer living at No.111 Jerteh Besut.

My father was towkay of Chop Chua Ban Seng which was dealing in bicycles. I am 4th son of Chua Ah Chee. I was staying in Chop Chua Ban Seng when my father did business. I was 8 years old.

My elder brother, Ah Poi, died in 1934. Before his death Ah Poi was i/c of Chop Chua Ban Seng. Chua Kee Law was also in charge. I and the other brothers assisted in the management.

30

My father died in Singapore during the occupation. After my father's death defendant, I and the other brothers were in charge of the business. When he left for Singapore I and my other brothers looked after the business.

I came to Court to ask for my share in my father's estate from the business of Chop Chua Ban Seng. I asked for it from the defendant but he

refused to give it. I asked him 6 or 7 times. Each time he asked me to wait.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 8

Chua Kim Swee.
Examination
- continued.

10 4th plaintiff went to China after the death of my father for the purpose of taking the bones of my father to China for burial. There was a meeting before sending 4th plaintiff to China. It was decided to hold another meeting after 4th plaintiff returned from China to discuss about the distribution of my father's estate which comprised of Chop Ban Seng's business, shares in one bus company, Trengganu Bus Co. Deceased had no shares in other bus company. When 4th plaintiff returned from China he, 5th plaintiff and I asked Defendant for distribution. Defendant asked us to wait saying that the building which was being applied for erection had not been approved by the government. The building was for all of us to live in. We agreed to the erection. The building was not erected. The building was to be financed from the profits of the
20 business of Chop Chua Ban Seng. I waited for the distribution or the house for 2 to 3 years without success. I and my brothers went to see the defendant. He refused to give us our shares and told us to leave our shop. We had an argument with him. He took a kitchen-knife with which he threatened to strike out. We moved out of the shop.

Next I obtained a job from Trengganu Bus Co. as a conductor. Later I opened on the recommendation of a friend a bicycle at my present bicycle.

sic.

30 Q. Where did you get the capital?
A. I borrowed money from my friend named Lau Keng Huat.

CROSS-EXAMINATION

Cross-
examination.

Cross-examined. Lau Keng Huat is not going to be a witness. I did not borrow any money from defendant.

40 ("X", "Y" and "W" are shown to witness). All 3 bear my signature. (They are 6, 7 and 8 of Exhibit D.1) They are not in relation to moneys borrowed by me. I am illiterate. I do not know Chinese characters. I attended school and I learned Chinese. I can sign. But I cannot read the characters. When I signed 6, 7 and 8 they were blank. I distinctly remember signing 3 pieces of paper with nothing on them.

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4th plaintiff was present at the meetings I have referred to. These meetings are not inventions of the last 10 months.

Plaintiffs'
Evidence

The last meeting among our brothers including the defendant was before I worked as a conductor. I worked as a conductor for about 20 days.

No. 8

Chua Kim Swee.

Cross-
examination
- continued.

In 1940 I opened the business of Sin Ban Seng in Jerteh. In 1940 I was not 13 to 14 years old but 23 or 24 years old. The Japanese occupied the premises. Sin Ban Seng was a branch of Chop Chua Ban Seng. When the Japanese came all the stocks had been removed from Sin Ban Seng to Chop Chua Ban Seng. I removed them while the Japanese were at Kota Bharu and had not reached Jerteh. Those stocks were put together with the stocks of Chop Chua Ban Seng. I do not know the value of my stocks which were in 5 gunny sacks. The bicycles were "Hoppers", each worth \$21 to \$22. The Japanese took all the bicycles which they could find. They searched for them. They did not take every bicycle from Chop Chua Ban Seng. They did not search the premises of Chop Chua Ban Seng. They took away no bicycle of Chop Chua Ban Seng but they removed an old bicycle from the 5ft way of Chop Chua Ban Seng. Not a single Japanese entered Chop Chua Ban Seng premises. 4th plaintiff was away at Kuala Brang when the Japanese entered Kuala Trengganu. He evacuated his family and my family there. 4th plaintiff was not on the premises of Chop Chua Ban Seng when the Japanese went there. He stayed at Kuala Brang for 2 or 3 days. There were about 150 bicycles on the premises of Chop Chua Ban Seng when the Japanese came there. I am aware the Japanese took bicycles from other bicycle shops. They emptied them. Anybody who had a bicycle had to give it up. A Japanese military soldier pasted a Japanese document on the door of Chop Chua Ban Seng.

10

20

30

After the liberation in 1948 or 1949 I opened another business in bicycles at Jerteh. That business exists till today. It has no chop. I did not register the business. Now I have registered it under the name of Ban Soon Seng. It is at No.111 Jerteh. I have had a business at Jerteh for the last 4 years and not 6 to 7 years. I now say I did not have a proper business of my own in Jerteh till about 4 years ago.

40

I received from defendant letter 5 in Exhibit D.1. I had the original of 5. I think I gave it

to my pleader. It was a demand for payment of over seven thousand dollars. I did not reply to that letter. That money is not due from me. I did not receive various advances from defendant to reopen business at Jerteh. I told my brothers that defendant made the demand for payment from me. I told my brothers I did not owe defendant the money.

Chop Ban Soon Seng is not a branch of Chop Chua Ban Seng. It is my own business.

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Plaintiffs'
Evidence

No. 8

Chua Kim Swee.

Cross-
examination

- continued.

10 I did not make any money during the Japanese occupation. I had a piece of rubber land about 20 acres which came into my name during the Japanese occupation. Defendant gave me the money to purchase it because he was afraid to go to Kuala Brang to make the purchase. I held the land in trust for defendant.

20 We did not live on black-marketing during the occupation. I do not remember that defendant travelled to Siam and Singapore to do business during the occupation. Not a single new bicycle came into Kuala Trengganu during the occupation. It is not true that sale of a bicycle happened on the average of one in 6 months during the occupation.

The last meeting between the plaintiffs and the defendant took place sometime before I recommenced business in Jerteh which was in 1948 or 1949. Defendant did not advance money or goods to me to start business.

30 It was after I received the notice of Demand (5 in Exhibit D.1) that this suit started.

RE-EXAMINATION

Re-examination.

Re-examined. In 1948 or 1949 the business was Kim Watt's. I assisted Kim Watt in repairing bicycles. I was not paid in money but in food by Kim Watt.

I started Ban Soon Seng in 1951, no connection with business in Kim Watt's.

People in Trengganu generally evacuated when they heard that the Japanese were coming, about 10 days before they arrived.

40 I attended Chinese School for $1\frac{1}{2}$ years. I did not see any other shop having the Japanese document

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on the shop-door. The Japanese pasted the document without him being asked for the document. I do not know what made the Japanese to write out and paste the document.

Plaintiffs'
Evidence

No. 8

I saw the defendant in relation to 5 in Ex.D.1 I told him that I did not owe him seven thousand dollars. I asked him to produce receipts. He did not produce any receipt.

Chua Kim Swee.
Re-examination
- continued.

I quarrelled with defendant about 4 or 5 times over the distribution.

10

Those 3 blank papers which I signed had letter head of Chua Ban Seng. He told me when he asked me to sign those papers that he would assist me to apply for agency of Humber bicycles. The 3 papers were signed at the same time. The signature and characters in 6, 7 and 8 of Exhibit D.1 are of different ink.

Stocks removed from Jerteh were kept in the upstairs of Chop Chua Ban Seng. The stocks were of bicycles and spare parts. The bicycles were not assembled. I met 4th plaintiff, defendant, 5th plaintiff when I brought the stocks to Chop Chua Ban Seng.

20

No. 9

No. 9

Haji Wan Long
bin Ahmad.
Examination.

EVIDENCE OF HAJI WAN LONG BIN AHMAD

P.W.5. - HAJI WAN LONG BIN AHMAD a/s in Malay. Dato Sangsura Pahlawan and a government pensioner living at Kampong Tanjong Nesan, Kuala Trengganu.

In 1344 (Muslim year corresponding to 1925) I was Magistrate in Kuala Trengganu. My transport then was by ricksha to office. It was pulled by Ah Chee otherwise known as "Panjang". At times his son Ah Poi pulled the ricksha. I used his ricksha till 1345 in the ninth month when I was transferred to Besut.

30

Ah Chee stayed at Kampong Daik at first. Before I left for Besut Ah Chee asked me for a loan of \$100/- to enable him to purchase a bicycle from Singapore for hire. I gave him \$100/-. He repaid by instalments at Kuala Trengganu and Besut. I

40

came to Kuala Trengganu from Besut at times. On some of those visits I met Ah Chee at his shop at Kedai Binjai. He introduced me on one occasion to his wife and his children who just arrived from China. This was in 1348 (1929). I used to buy motor car tyres, accessories and bicycles from his shop. His shop was well stocked. He started a bicycle shop at Jerteh in 1350 (1931). Ah Loh, his son, was in charge of that shop. I often went to that shop.

I was next transferred to Kemasek. We used to meet each other.

I did not meet him during the occupation. I retired in 1951.

CROSS-EXAMINATION

Cross-examined. My recollection of years is rough. I can remember the years but not the dates. Ah Chee and I were of different status. I had nothing in common with him.

I started to own a car when the road between Kuala Trengganu and Besut was put to use. My car was old. Whenever I was in Kuala Trengganu I would stop at Ah Chee's shop. I last saw him shortly before the Japanese occupation. I did not see him during the occupation.

RE-EXAMINATION

Re-examined. When I had my motor-car almost all Senior government officers in Kuala Trengganu had cars. I used to stop at his shop because he was very good to me apart from having been my trisha-puller.

Adjourned to noon tomorrow.

Sd. A. Hamid
22/8/55.

Resumed from yesterday at 2 p.m.

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Plaintiffs'
Evidence

No. 9

Haji Wan Long
bin Ahmad.

Examination
- continued.

Cross-
examination.

Re-examination.

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High Court at
Kuala Trengganu

EVIDENCE OF CHUA KIM HOON

Plaintiffs'
Evidence

No. 10

Chua Kim Hoon.
Examination.

P.W.6. - CHUA KIM HOON a/s in Hokkien. 28 years old. Proprietor of a bicycle shop at Banggol, Kuala Trengganu. I am the 6th son of Chua Ah Chee. I was born in Kuala Trengganu.

Before the Japanese occupation I was in Kuala Trengganu. I had been to Singapore pre-occupation with my father to purchase goods. My father purchased bicycles and bicycle accessories. He brought them to Chop Chua Ban Seng by steamer. He did not go again to Singapore. I accompanied him once to Singapore. He died in Singapore during the occupation. He was on his way to China then. He left Kuala Trengganu for Singapore on the eve of the Japanese occupation. I, 2nd plaintiff and Chua Kee Law accompanied him to Singapore. That was the 2nd occasion I accompanied him. On the second occasion he bought bicycles and bicycle accessories totalling 10 boxes - such box was slightly larger and higher than the Registrar's table (measured 4' x 2'9" x 2'4"). Those goods were to be sent to Kuala Trengganu 2 or 3 months after the purchase, Japanese invaded Malaya. I was then 11 to 12 years old. My father was killed by the Japanese. I remained in Singapore for 2 or 3 months. Chua Kee Law and 2nd plaintiff were stabbed by the Japs. They remained in Singapore with me. A Malay named Che Long came to see me and Kee Law in Singapore. He brought a letter together with \$500/- in cash which he handed to Kee Law. I do not know the contents of the letter. Che Long took me back to Kuala Trengganu. I brought with me the 10 boxes of bicycle and bicycle parts. We travelled in Che Long's tongkang (sailing boat). The journey took one month. Kee Law and 2nd plaintiff stayed behind in Singapore.

Arriving at Kuala Trengganu I went to Chop Chua Ban Seng where I saw the defendant, 3rd plaintiff and 4th plaintiff. I brought the 10 cases to Chop Chua Ban Seng and handed them to those 3 brothers. They were kept upstairs, in the store and next door. I went upstairs of Chop Chua Ban Seng where there were other bicycles and bicycle accessories. Upstairs was full of them. I saw the goods in the store and the next door. They were on the floor covered with gunny sacks.

I resided in Chop Chua Ban Seng throughout the

occupation. Old bicycles but not new bicycles were sold during the occupation.

I married in 1943 in Ban Seng Leong. Because of many goods in Chop Chua Ban Seng the marriage could not be held there. I was told to get married in Ban Seng Leong. 2 or 3 days after the marriage I moved back to Chop Chua Ban Seng. I worked in Chop Chua Ban Seng. After liberation business was still being conducted in Chop Chua Ban Seng. During the occupation business of selling bicycle parts and repairs was done in Chop Chua Ban Seng.

I worked in Chop Chua Ban Seng after the liberation. I did repairs and sold bicycle and bicycle parts. Sale was by cash only. I signed receipts for cash being payments of instalments. Sales later were by instalments. Defendant, 4th plaintiff, Chua Teng Teck and I signed the receipts. Chua Teng Teck was working in the shop for more than 20 years.

Chua Teng Teck was in Chop Chua Ban Seng when I returned from Singapore with Che Long.

I also collected payments, demand payments and looked after the business. I used to go to Kota Bharu, Kemaman and Dungun to demand and collect payments. In Kuala Bharu I collected from Ah Chiang, Chop Ban Hong Leong and Ah Teow among others. I went to Kuala Bharu by bus. I also attended to orders from customers; defendant told me to do so. Goods were sent to outstation customers by lorries.

Defendant owns rubber estates; I know of 2 pieces, at Ulu Kuala Bros. They belong to us, brothers. Rubber produced from those estates was brought down to Chop Chua Ban Seng by workmen employed on those estates. Defendant arranged for the sale of the rubber. Defendant kept the proceeds of sale in Chop Chua Ban Seng. Defendant collected the money. In relation to rubber defendant used to send me to collect moneys from purchasers and to sign receipts for sale of rubber. 3rd plaintiff, 4th plaintiff and Chua Teng Teck would also sign the receipts.

Account Books were kept in Chop Chua Ban Seng. All the brothers kept those books.

CROSS-EXAMINATION

Cross-examined. There were 2 or 3 small rooms on the premises of Chop Chua Ban Seng; the rest of

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Plaintiffs'
Evidence

No. 10

Chua Kim Hoon.
Examination
- continued.

Cross-
examination.

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High Court at
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Plaintiffs'
Evidence

No. 10

Chua Kim Hoon.

Cross-
examination

- continued.

the premises was full of bicycles and accessories. There were 2 very small rooms. Defendant and his family occupied one of those 2 rooms. 2nd Plaintiff and her family occupied the other room. I occupied a small room upstairs. There was no room for anybody else.

I first went to Singapore when I was about 12 or 13 years. The second time I went to Singapore was about 7 years later. I cannot say if it was just before the occupation that I went the second occasion to Singapore. We intended to return to China. When we arrived at Singapore the Japanese had already invaded Malaya. I now say they had not. We intended to go to China to avoid the Japanese.

10

On 15.12.41 I did not know that the Japanese were already in Kuala Trengganu.

There were boatmen on the tongkang. I do not know the date I returned to Kuala Trengganu. it was about 2 to 3 months after the fall of Singapore. The boxes were loaded by my father into the tongkang. I misunderstood the question. I thought I was asked about goods from Europe. I now say Che Long loaded those goods. I accompanied him. They were loaded in Singapore harbour called "Hang Teng" (red lamp). It is a fairly big harbour. Che Long attended to the customs. He obtained permission to leave the harbour from the Customs to go to Trengganu. He also obtained permission from Customs here to land the goods. They were openly carried to Chop Chua Ban Seng.

20

We did not sell the new bicycles during the occupation because we held on for better prices.

I am 28 years old now. In 1941 I was 14 years old. I am telling the truth about the cases of bicycles and accessories. The Japanese had not entered Trengganu when my father brought the bicycles.

Q. Who was to return to Kuala Trengganu with the bicycles since you all decided to go to China?

A. I do not know. My father did not tell me.

Families of 3rd and 4th plaintiffs did not live on the premises of Chop Chua Ban Seng 3rd and 4th plaintiffs at times stayed at Chop Chua Ban Seng and at times at Ban Seng Leong. Their families were staying at Ban Seng Leong. Chua Kee Law stayed at Ban Seng Leong during the occupation. In 1944 and

40

1945 he stayed at Ban Seng Leong. At the beginning of the occupation I do not know where he stayed. After my return from Singapore he was at Ban Seng Leong which was then in the charge of the defendant, 3rd plaintiff and 4th plaintiff.

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Plaintiffs' Evidence

No. 10

Chua Kim Hoon.

Cross-examination

- continued.

10 During the occupation business was conducted only at Chop Chua Ban Seng. The business was good at Chop Chua Ban Seng. Our business then was buying bicycles and not selling them. We dealt in old and new bicycles.

I am telling what actually happened and what I know. 3rd and 4th plaintiffs knew the goods when they arrived at Kuala Trengganu.

I borrowed money to open my present shop. I never borrowed money from the defendant. So far I have taken 5 old bicycles from his shop. He told me that I could obtain goods from his shop.

RE-EXAMINATION

Re-examination.

20 Re-examined. I borrowed money from Ah Moi for \$2,000/- to start business. I believe he is a hospital attendant. I obtained goods on credit from Chin Hin in Kuala Trengganu and Chop Teck Seng in Singapore. I slept in folding camp-bed among spare parts. 4th plaintiff was in Chop Chua Ban Seng, at the time of my marriage. It was Chua Kee Law's right to hold on to the new bicycles for higher prices.

30 The purpose of returning to China was because of Kee Law's poor health and had nothing to do with the occupation of the Japanese.

(At this stage Court adjourns for 15 minutes)

No. 11

No. 11

EVIDENCE OF NG BOON LIN

Ng Boon Lin.

Examination.

P.W.7. - NG BOON LIN a/s in Hokkien. 48 years old. Chinese clerk to a Quarry at the 36th mile Kuala Trengganu-Jerteh Road. I have been residing in Kuala Trengganu for the last 17 years.

I know Chua Ah Chee, have known him since I

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came to Kuala Trengganu in 1938. Chua Ah Chee had a bicycle shop, Chop Chua Ban Seng. He is defendant's father.

Plaintiffs'
Evidence

No. 11

Ng Boon Lin.
Examination
- continued.

I know of a Bus Co. called Trengganu Bus Co. It was formed in 1938 or early 1939. Agreement was drawn between the shareholders and the Company. Among the share-holders were myself, C. Ban Seng, Chua Kim Seng, Ng Kow Pak, Thia Ah Leng and Ng Chin Siong. Chua Ban Seng had 14 shares at £100/- a share. Chua Ah Chee paid on behalf of Chua Ban Seng. Chua Ah Chee and Chua Ban Seng were living in Kampong China. Chua Ah Chee is the name of a man and Chua Ban Seng is the name of a chop. Chua Ah Chee was the proprietor of Chop Chua Ban Seng. Chua Ah Chee was my friend and I used to borrow money from him. I could not repay him. I called the deceased to become partner in the Bus Co. Prior to Trengganu Bus Co. there was Tai Seng Bus Co. of which I was a shareholder. There were 4 shareholders, including me in Tai Seng Bus. Co.

10

20

I had 7 shares out of 70 shares in Trengganu Bus Co. Chua Kee Law was the manager of Trengganu Bus Co. Chua Kee Law was a son of Chua Ah Chee. The shareholders nominated Chua Kee Law the manager. He was not a shareholder. He was nominated because of his father. Chua Ah Chee's shares were in the name of Chua Ban Seng.

I see this document (Agreement is shown to wit:) This is an agreement in relation to Trengganu Bus Co. It bears the signatures of several persons including mine. Chua Ah Chee's or Chua Ban Seng's signature does not appear. Chua Kee Law's signature is there. Chua Kee Law's signature appears because he was the manager. Chua Ban Seng allowed Chua Kee Law to be the manager. The 14 shares were purchased with the money with Chua Ah Chee. (Agreement is tendered, not objected to, admitted and marked Exhibit P.14).

30

Chua Kee Lau and Chua Kee Law are the same.

(Ironside - I object to oral evidence being introduced to vary the contents of that agreement which is clear by itself - SS. 91, 92 and 94 Ev. Ordinance.

40

Maidin - I am not trying to vary the agreement. It is to show that there was a trust in respect of the 14 shares.

Ironside - The agreement shows that Chua Kee Law was a partner and does not state on behalf of anybody.

Court upholds objection).

I see this document (shown to witness). It bears my signature. I cannot remember what the document is. It is in English which I do not understand, (is read out and interpreted to witness). Now I remember it was a Power of Attorney which I signed on my own behalf (tendered, not objected to, admitted and marked Exhibit P.15). It speaks of "to receive claims from the War Damage". A claim was lodged to the War Damage Commission for buses of old Trengganu Bus Co. taken by the Japanese. Exhibit P.14 relates to the same Bus Co.

In the High Court at Kuala Trengganu

Plaintiffs' Evidence

No. 11

Ng Boon Lin.
Examination
- continued.

Chua Chee Chor was not a partner of Trengganu Bus Co. of which Exhibit P.14 is the agreement. But he figures in Exhibit P.15 and was a signatory.

Q. Why did Chua Chee Chor sign Exhibit P.13?
A. Exhibit P.15 was signed post-war and I know nothing of post-war affairs of the Bus Co.

Chua Kee Law's name does not appear in Exhibit P.15 because he was dead when it was executed.

CROSS-EXAMINATION

Cross-examination.

Cross-examined. I do not know who prepared Exhibit P.15. I have sold all my shares in the Bus Co. to one of the shareholders about 5 years ago.

Che Maidin prepared Exhibit P.14. I was employed by the Trengganu Bus Co. as a bus driver. Chua Chee Chor is that man (points to defendant). When I was the Bus employee defendant was not holding any office in the Bus Co. I was the bus driver from 1938 to 1941. I do not know that Kee Loh sold some shares to Chee Chor.

I know Kong Ah Hock. When I was a shareholder he was not one. I do not know very much what happened after the execution of Exhibit P.14. Some shares changed hands of which I took no interest.

RE-EXAMINATION

Re-examination

Re-examined.

Q. Was there any change of shareholders between 1938 and 1941 while you were a bus driver?
A. Tong Ah Leng sold his shares to Lau Kim Huat.

(Witness is released).

In the
High Court at
Kuala Trengganu

No. 12

EVIDENCE OF WEE HONG BIAN

Plaintiffs'
Evidence

P.W.8. - WEE HONG BIAN a/s in Hokkien. 54 years old. Manager of Trengganu Bus Co. Ltd. and also proprietor of a provision shop at Nos. 200 and 202 Kampong China, Kuala Trengganu.

No. 12

Wee Hong Bian.
Examination.

I became Manager of the Bus Co. from 1953. There is a letter in my possession written by the shareholders to Road Transport Dept. on 3.4.1947. I, as Manager keep all the documents relating to the Bus Co. The letter is a signed copy. This is it - tendered, not objected to, admitted and marked Exhibit P.16.

10

Cross-
examination.

CROSS-EXAMINATION

Cross-examined. I know nothing of Exhibit P.16. I am only producing it. I keep all the documents which were left over by the previous manager. All other documents are in the keeping of the Secretary named Che Rashid.

Che Maidin was the Secretary of the Bus Co. from what year to what year I do not know (Che Maidin says from the Bar table till end of 1949).

20

No Re-examination.

(Witness is released).

Adjourned at 6.40 p.m. till tomorrow.

Sd. A. Hamid.
23/8/55.

Resumed at 9.15 a.m. on 24/8/55.

No. 13

No. 13

Tong Ah Leng.

EVIDENCE OF TONG AH LENG

30

Examination.

P.W.9. - TONG AH LENG a/s in Hokkien. 44 years old. Foreman in the Trengganu Bus. Co. living at No.18 Kedai Binjai.

I first came to Kuala Trengganu in 1937; stayed

at Jalan Banggol. My first occupation here was as driver and motor car driver to Chua Boon Kee. I worked there for 6 to 7 months. Next I bought a bus in kongsi with 2 others. This was in 1938. Later I organised the Thye Seng Bus Co. No agreement was drawn up. The partners of Thye Seng Bus Co. were Ng Boon Leng, Chua Kim Seng, Ng Kow Peck, Ng Ah Kok and myself. Next the Trengganu Bus Co. of whom Ng Kow Peck, Chua Kee Law, Ng Boon Leng, Ng Ah Kok, Chua Kim Seng and I were the partners. Chua Kee Law was the son of Chua Ah Chee. Chua Kee Law is now dead.

I know Chua Kee Law obtained the money from Chua Ah Chee. The amount was £1,400/-. Chua Kee Law was the Manager and I was assistant Manager in Trengganu Bus Co.

Ng Boon Leng and Ng Ah Kok obtained the money from Chua Ah Chee. Ng Boon Leng was a witness yesterday.

I sold my shares in 1941 to Law Kim Huat.

Exhibit P.14 is the agreement in relation to the Trengganu Bus Co. It was drawn by you (Maidin).

Q. Why was the money obtained from Chua Ah Chee when Chua Kee Law appears on Exhibit P.14?

A. Chua Ah Chee wanted Chua Kee Law to be the manager of the Trengganu Bus Co. At the time Chua Ah Chee was quite old and there were many other share-holders in the said company and that Chua Ah Chee could not look after the affairs of the Company and then he called after Chua Kee Law to be the Manager and to look after the company's affairs. I know Chua Ah Chee. He was also the proprietor of Chop Chua Ban Seng since 1937.

Account Books for Trengganu Bus Co. were kept by a clerk. As Assistant Manager I had access to those Account books. I do not know who has the books now. In 1941 I left Trengganu Bus Co. I cannot remember who succeeded me.

CROSS - EXAMINATION

Cross-examined. In 1939 Chua Ah Chee was too old to manage the Bus Company's affairs. I came to know Chua Ah Chee in 1937. I did not know him before. He was at Chop Chua Ban Seng then.

RE-EXAMINATION

Re-examined. I used to visit Chua Ah Chee in 1937 for a chat.

(Witness is released).

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 13

Tong Ah Leng.

Examination
- continued.

Cross-
examination.

Re-examination.

EVIDENCE OF LIM HO HOO

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 14

Lim Ho Hoo.
Examination.

P.W. 10 - LIM HO HOO a/s in Hokkien. 40 years old. Clerk in the Trengganu Bus Co. living at Jalan Banggol.

I know the defendant. I worked for him as an account clerk. I wrote his accounts. I am doing accounts in the Trengganu Bus Co.

I also work as account clerk in the Union Bus Co.

10

I see this account book (shown to witness). It belongs to Trengganu Bus Co. It is a journal. There is an entry in the name of Chua Ban Seng for \$7,000/- in respect of 14 shares. (Account book tendered, not objected to and admitted and marked as Exhibit P.17).

I see this account book (shown to witness). It is a Journal of Trengganu Bus Co. for 1947. Exhibit P.17 was for 1946. There is one entry in this account book for 70 shares at \$7,000/- fully paid in the name of Chua Chee Chor.

20

Q. Chua Ban Seng appears in Exhibit P.17 and Chua Chee Chor in this account book; what is the explanation?

A. I do not know.

(Account book tendered, not objected to, admitted and marked as Exhibit P.18).

I see this Iedger (shown to witness). This belongs to the Union Bus Co. for 1946. There is an entry in the name of Chua Ban Seng for 44 fully paid shares for \$4,400/- (tendered, not objected to, admitted and marked Exhibit P.19).

30

Cross-
examination.

CROSS-EXAMINATION

Cross-examined. Maidin was the Secretary of the companies in 1947.

No re-examination.

Adjourned to 2 p.m.

Sd. A. Hamid.

Resumed at 4.25 p.m.

Parties as before.

40

No. 15

EVIDENCE OF LIM KAI CHENG.In the
High Court at
Kuala TrengganuPlaintiffs'
Evidence

No. 15

Lim Kai Cheng.
Examination.

P.W. 11 - LIM KAI CHENG a/s in Hokkien. 65 years old. Textile dealer living at No.43 Kampong China, Kuala Trengganu. I am a Government pensioner, ex Customs employee. I know 3rd, 4th and 5th plaintiffs. I know their father. I have known him for about 30 years. I have not seen him since the occupation.

10 I know defendant. He is Chee Chor. His father was known as Panjang or Ah Choo. He is brother of 3rd, 4th and 5th plaintiffs.

Panjang was a ricksha-puller. He pulled ricksha for Dato Hwee who is a Chinese and known as Dato Mahakurinia. He also pulled for Dato Haji Long. There were other children of Panjang. I do not know the names of the other children. His elder son was also a ricksha-puller.

20 Panjang had a business of Chua Ban Seng. I do not know when he started that business. I used to see Panjang as he passed the Customs. He had 2 or 3 places of abode, at Kampong Daik and Chop Chua Ban Seng at Jalan Kedai Binjai which is now known as Kampong China.

There were 2 Customs officers in those days - one was near the Post Office and other other at Jalan Kedai Binjai. I worked in both offices.

I used to frequent the coffee shop next to Chua Ban Seng.

30 CROSS-EXAMINATION

Cross-
examination.

Cross-examined. I do not remember when Panjang first came to Malaya. I came to know him about 30 years ago when my age was more than 30 years.

40 Panjang at first resided at Kampong Daik, then he removed to Jalan Kedai Binjai. I remember the shops in which his sons lived. I do not remember the eldest son's name. I remember the shop the eldest son had. I can remember of only one of his sons pulling ricksha. I do not remember a Kee Law. I do not know which son of Panjang lived at Kampong Daik. I do not remember of a son of his died at

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 15

Lim Kai Cheng.

Cross-
examination

- continued.

Re-examination.

Kampong Daik. I had never been to Panjang's shop. I used to see him in his shop as I passed it. I did not have close relationship with him or his family. I do not know whether he kept his ricksha at Kampong Daik. I used to see his ricksha at Jalan Kedai Binjai.

RE-EXAMINATION

Re-examined. He had his business at Jalang Kedai Binjai when he was pulling ricksha. I do not know when he stopped pulling ricksha.

10

(Witness is released).

No. 16

No. 16

Chua Say Tiong.

Examination.

EVIDENCE OF CHUA SAY TIONG

P.W.12 - CHUA SAY TIONG a/s in Hokkien. Proprietor of bicycle-shop at No.23 Kampong China.

I know the defendant and the plaintiffs. I know their father who is now dead. He was my uncle.

I first came to Trengganu in 1938 from Singapore because Chua Ah Chee, my uncle, sent for me. He asked me to work in his shop Chop Chua Ban Seng. I worked there as well as in his other shop called Ban Seng Hing. I know Ah Poi. He was the eldest son of Chua Ah Chee. He is now dead. In 1938 he left for China. Before he left he was working in Chop Ban Seng Leong which belonged to Chua Ah Chee. After he left I looked after the business of Ban Seng Leong. He told me to be its manager. If there was any profit made I would be given 30%.

20

I ceased working for Chua Ban Seng in 1941.

I have been having dealings with 3rd plaintiff in bicycles. I have an account of transactions with him. In 1951 I commenced business with him. I sold him bicycles and spare parts by cash and on credit. At present he owes a few hundred dollars.

30

5th plaintiff has been having dealings with me since 1953. The present position is that he owes me about \$1,000/-.

CROSS-EXAMINATION

Cross-examined. Ah Poi left for China in 1938. Before he went to China he was in Ban Seng Leong. I do not know if he gave a Power of Attorney to Kee Law. It was Ah Chee and not Ah Poi who told me to look after Ban Seng Leong.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 16

Chua Say Tiong.

Cross-
examination.

10 In 1938 Ah Poi and his family had been living in Ban Seng Leong. At that time Kee Loh and his family lived at Ban Seng. 3rd plaintiff, Chua Chee Chak, 4th plaintiff, defendant and Kee Loh lived at Ban Sing Hin off and on.

20 I am on friendly terms with the defendant. It is not true that for quite some time I had nothing to do with the defendant, I did not threaten to "break" him. I do not know that defendant demanded from 3rd plaintiff some time ago. 3rd plaintiff did not tell me - I am on close terms with the plaintiffs. I do not know that the demand had caused a lot of trouble. I had advanced goods to 3rd plaintiff to the knowledge of my employees and the plaintiffs. 3rd plaintiff opened a shop at Jerteh and I supplied him with goods. The opening of his shop was not discussed in my presence. Other plaintiffs did not approach me to advance goods to him. He did not need any assistance. He bought goods from me and others. I do not remember if he also got goods from the defendant. I do not know about the affairs of the plaintiffs and the defendant.

30 I opened my own shop in 1941. When I left Chua Ban Seng, 4th plaintiff took over from me. 4th plaintiff and an employee named Lau Ah Chai stayed there. I do not know how long 4th plaintiff stayed there. I now say he stayed there for about one year. 4th plaintiff's brothers stayed there during the occupation. I cannot say which brothers because they moved from one shop to another from time to time.

40 After his marriage, 5th plaintiff lived in Ban Seng Leong and Ban Seng. I am not very clear if his wife lived in Ban Seng. Their wives and children went from one shop to another. They used to move round.

Q. Can you tell me what reason Ah Poi could have had for giving a Power of Attorney to Kee Law?

A. I do not know.

I do not know what property Ah Poi had. Ban

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 16

Chua Say Tiong.
Cross-
examination

- continued.

Re-examination.

Seng, Ban Seng Hin and Ban Seng Leong had 3 shop-houses. Kee Law had those 3 shop-houses. Sons and father had not distributed the property. I know that Ah Poi had no property of his own. I do not know for what reason Ah Poi could have given Power of Attorney to anyone. I have not told any lies.

I know that Ah Poi was the proprietor of Ban Seng Leong. I do not say so before because father and son are the same. I do not know that Ah Poi was the sole proprietor of Ban Seng Leong and that Kee Law was the sole proprietor of Ban Seng Hin. Ah Chee was not the proprietor.

10

RE-EXAMINATION

Re-examined. Ah Chee was the proprietor of Ban Seng, Ban Seng Heng and Ban Seng Leong. He was not the sole proprietor.

I am the towkay of my own shop. My children are also Towkays of my shop. I have 3 sons and 2 daughters. When I am dead my property go to my children. I regard the same with Chua Ah Chee.

20

(Witness is released).

Adjourned at 6.05 p.m. to 9 a.m. tomorrow.

Sgd. A. Hamid.
24/8/55.

Resumed at 9 a.m. on 25/8/55.

Parties as before.

No. 17

No. 17

Ng. Boon Seng.
Examination.

EVIDENCE OF NG BOON SENG

P.W.13 - NG BOON SENG a/s in Hokkien. 56 years old. Superintendent of Trengganu Bus Co. Ltd. living at No.75 Jalan Banggol, Kuala Trengganu.

30

In 1940 I was in Kuala Trengganu. I was a shareholder of Trengganu Bus Co. in 1940.

I see Exhibit P.14. My signature is not on it. Exhibit P.14 was drawn up in 1939. I was a shareholder from 1940.

Q. How did you become a shareholder?

A. I was asked to join by the then shareholders as the Company was short of capital.

In the
High Court at
Kuala Trengganu

I put in \$1,600/-. I was the treasurer in 1940 I knew Chua Ah Chee. He was a shareholder of Trengganu Bus Co. People also used to call him Ah Chee. Chop Chua Ban Seng was his business.

Plaintiffs'
Evidence

No. 17

I see this Journal (shown to witness). I have never seen it before.

Ng Boon Seng.

Examination

- continued.

10 Q. How did Chua Ah Chee become a partner of the Trengganu Bus Co.?

A. He bought the shares himself.

Chua Kee Law was Chua Ah Chee's son. He was the manager of the Trengganu Bus Co. Trengganu Bus Co. subsequently became Trengganu Bus Co. Ltd.; it was post-war. I was the manager of Trengganu Bus Co. Ltd. Chua Ah Chee held shares in Trengganu Bus Co. Ltd.

20 I see Exhibit P.17. It is a Journal of the Trengganu Bus Co. Ltd. Chua Ah Chee's shares were on Exhibit P.17 in the name of Chua Ban Seng. He had 14 fully paid up shares worth \$7,000/- at \$500/- per share. Later the shares were changed into the name of Chua Chee Chor who is the defendant.

Law & Co. were the Secretaries of Trengganu Bus Co. Ltd.

30 The shares were changed from the name of Chua Ban Seng to Chua Chee Chor for his reason. When I wanted to register the Trengganu Bus Co. as a limited Company I was advised by Law & Co. that I could not do it unless I put the names of the various partners and not the names of the Chop. I acted on that advice. The defendant was the representative of Chua Ban Seng when I received the advice.

Chua Kee Law is now dead. When I received the advice he was dead. The shares which were in his name in Trengganu Bus Co. I do not know what happened.

40 I know something of the Union Transport Co. There was a long litigation over Kuala Trengganu Co. with the Transport Dept. Eventually I and some of my friends were allowed to run the Union Transport

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Co. which was later registered as a limited Company. I was one of the directors and you (Maidin) Secretary of Union Trengganu Co. Ltd.

Plaintiffs'
Evidence

No. 17

Ng Boon Seng.
Examination
- continued.

I see Exhibit P.19. It is the ledger of Union Trengganu Co. Ltd. There is an entry therein of Chua Ban Seng's 44 shares valued for \$4,400/- at \$100/- per share. Union Trengganu Co. Ltd. was formed in 1946. I do not remember when it was registered. Those shares were paid by the defendant. On the advice of Law & Co. the name of Chua Ban Seng was changed to Chua Chee Chor in respect of those shares. Later Union Transport Co. was merged into Trengganu Bus Co. Ltd. Tay Nyok Ching was the Secretary at the time of the merger.

10

The shares in the amalgamated Company which were in the name of Chua Ban Seng are now in the name of Chua Chee Chor. Those shares were valued at \$11,400/-.

I am not sure whether he had acquired other shares worth \$700/- in the Trengganu Bus Co. Ltd.

20

At present defendant has 17 shares in his name in the Trengganu Bus Co. Ltd. At first he had 114 shares, later he added 100% shares making 228.

At end of December 1951 defendant had 242 shares in his name comprised of 70 shares in Trengganu Bus Co. 51 shares in Union Trengganu Co. and 100% of those shares (70, 51, 121). The Trengganu Bus Co. Ltd. suffered a loss of a few hundred thousand dollars and that was the reason for 100% shares being added.

30

Cross-
examination.

CROSS-EXAMINATION

Cross-examined. At the time of the great loss I do not know what each share was worth. Each shareholder was required to contribute 100% of the share capital held by him. The defendant's additional shares were paid for but I do not know who paid them. I do not know that the greater part of his shares had been transferred to someone else. I know that now he has 17 shares left. Before I came to Trengganu I knew nothing of what happened in Trengganu. Anything I say what happened before 1940 I say because I have been asked to say.

40

I know Chua Kee Law had not transferred some shares to defendant.

I did not see Kong Ah Hock's name as being a shareholder. I cannot say if shareholders bought shares for others. I do not know Kong Ah Hock transferred his shares in 1946. I used to inspect the account books. According to the books Kong Ah Hock's name was not there. Persons who are not on the books have no interests in the Company.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 17

In 1946 I do not know if Kong Ah Hock transferred $3\frac{1}{2}$ shares in the company to the defendant.

Ng Boon Seng.

10 I am telling things which I know. 4th plaintiff is my next door neighbour. 5th plaintiff's wife is not my niece.

Cross-
examination

- continued.

20 4th plaintiff was working in the Bus Co. and so was I. He was the Treasurer and I was the manager. Defendant was Treasurer and director of the Company at different times. I do not remember of the occasion when he had a rise in pay of \$40/- per month when I did not have. I did not cause trouble over it and brought it to the attention of the directors. I do not remember it happened in 1948. I attended directors' meeting in 1948 over an increase of \$40/- salary to the defendant. I do not remember attending a directors' meeting on 29th May 1948. If there are minutes of the meeting stating so I must have been there. I was never jealous of the defendant.

RE-EXAMINATION

Re-examination.

30 Re-examined. What I said of what happened in 1940 I said from what I know. No one told me what to say of things before 1940. I have not said anything of what happened prior to 1940.

Between 4th plaintiff and defendant I knew defendant first. Defendant was Managing Director of the company and I was the manager at one time. We were in that relationship for more than one year.

40 4th plaintiff was at one time manager of the company when I left for Singapore. He was nominated by the other shareholders. When I returned from Singapore Wee Hong Bian was the Manager and defendant did not hold any office in the company but was looking after his own business.

(Witness is released).

In the
High Court at
Kuala Trengganu

EVIDENCE OF CHUA TENG TECK

Plaintiffs'
Evidence

P.W.14 - CHUA TENG TECK a/s in Hokkien. Proprietor of a bicycle shop at No.25 Kampong Daik. 26 years old.

No.18

Ah Poi was my father; he is now dead.

Chua Teng Teck.
Examination.

Chua Ah Chee lived at Chua Ban Seng at No.145 Kedai Binjai before he died. He died during the occupation. I do not know how old I was then. By reckoning I would have been 12 years old. I attended school before the occupation. During the occupation I was in my own bicycle shop at Kedai Binjai. The shop actually belonged to my grandfather, Chua Ah Chee. 10

Chua Ah Chee went to Singapore and did not return to Kuala Trengganu. Chua Kim Hoon, Chua Kee Law and 2nd plaintiff accompanied him to Singapore. I remained in Chop Chua Ban Seng with 3rd plaintiff, 4th plaintiff and defendant.

At the beginning of the occupation Chop Chua Ban Seng had in stock about 200 new bicycles and much accessories. They were not seized by the Japanese. Some of the stocks were kept in the store and some next door. By the store I mean the store behind Chop Chan Hong Beng. Some was also kept upstairs of Chop Chua Ban Seng, placed on the floor and on an improvised planking. 3rd plaintiff, 4th plaintiff, defendant 2 employees and I kept those stocks on the upstairs. 20

(At this stage Court adjourns for about 10 minutes on the application of Maidin). 30

Those things on the floor were kept in heaps.

There were 4 rooms on the upstairs at first; later 2 rooms at the rear were dismantled to give space for keeping the goods. C.K. Yong and C.K. Swee stayed in the 2 rooms. Defendant lived at Kampong Daik. In the rooms occupied by C.K. Yong and C.K. Swee goods were also kept, kept underneath the beds.

Chua Ah Chee did not return to Kuala Trengganu from Singapore but those who accompanied him did. 40

5th plaintiff returned first; returned 2 or 3 months after the occupation. He brought bicycles and accessories by a junk. I saw the junk and went to it to see 5th plaintiff. I did not see the bicycles and accessories because these were in the midst of other goods. I saw them in Chop Chua Ban Seng. I do not know how they were carried from the junk; they were delivered at the door in a bullock cart. 5th plaintiff came with them. The boxes were opened in my presence.

I remained in Chua Ban Seng during the occupation. No business was carried on. The shop was closed.

Defendant sold the goods of Chua Ban Seng to Kota Bharu.

Chua Kee Law also stayed in Chua Ban Seng. He returned to Kuala Trengganu 4 or 5 months after the occupation.

2 boxes of Raleigh bicycles were sent by Robinson & Co. Singapore during the B.M.A. I assisted in opening the boxes which contained 25 bicycles. Defendant told me and others that my grandfather ordered them when he was in Singapore before the occupation.

In 1946 Chua Ban Seng reopened business. Defendant did not allow me to resume study.

Chua Kee Law died in 1946.

I worked as a salesman, bicycle repairer, receiving payments and issuing receipts during B.M.A. We sold stocks which were in the store, next door and upstairs.

3rd, 4th and 5th plaintiffs were in Chua Ban Seng then doing the same job as I.

I wrote in the account books of the dealings I did. Some of them are in Court.

Defendant told me that my father and grandfather had shares in Chop Chua Ban Seng. He told me in 1946. I believed him. I do not know why he told me so. Since he did not allow me to continue studies I worked in Chua Ban Seng. At that time 4th and 5th plaintiffs were in China. 4th plaintiff went to China first. 3rd plaintiff was also working

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Evidence

No. 18

Chua Teng Teck.
Examination
- continued.

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in Chua Ban Seng but spent sometime elsewhere. I was looking after the business. Defendant was then treasurer in Trengganu Bus Co. and worked there. He used to come back to Chua Ban Seng for food.

Plaintiffs'
Evidence

He did work in Chua Ban Seng when he was in the premises.

No. 18

Chua TengTeck.
Examination
- continued.

Defendant drove me out of Chua Ban Seng in 1950. He told me to work in the Trengganu Bus Co. as treasurer and he would look after the business of Chua Ban Seng. I worked in the Bus Company. During my service I collected money for the Bus company about 10 times. Defendant told me that I did not perform my duties as Treasurer well and claimed the job back. I returned to Chua Ban Seng. In 1950 I left Chua Ban Seng taking with me some account books of Chua Ban Seng. I took those books because defendant was throwing them about and he told me that my father and my grandfather had shares in it.

10

Those books are all in Court (several of them). Among those books I do not find one for 1946; there is one for 1947. I went through those books. I found signatures of me, defendant, 3rd, 4th and 5th plaintiffs in those books.

20

Cross-
examination.

CROSS-EXAMINATION

Cross-examined. I took those books in 1950. Defendant did not know that I took them. I do not know that some of the defendant's books were taken by 4th plaintiff from the receiver (appointed by Court) I deny that I obtained those books through the receiver. I took the books for the purpose of the proceeding I was taking against the defendant. I studied them. There were documents in them which I was going to use. In 1952 I instituted a suit against the defendant. In that suit I made no reference to those documents. It is true that I got them in 1950.

30

Suit No.6/52 in this Court relates to my proceedings against the defendant. I filed the S/plaint. (Maidin objects to admission of S/Plaint. O.9 r.l. objection is upheld. But Court will have a look at it). I claimed that my father Ah Poi was a partner of the defendant in Chop Ban Seng but I do not remember to have said that my father was late of No.13 Kampong Daik, Kuala Trengganu. I do not remember if I averred therein that defendant was partner and manager of Chop Ban Seng. None of the

40

plaintiffs in this suit was a party in Suit No.6/52.

I do not remember if I claimed that any of them had any interest in Chop Ban Seng. I do not know that at the time 4th plaintiff was on good terms with the defendant. 4th plaintiff and defendant were living together at that time. I do not remember if the defence was that the defendant was sole proprietor. I received a copy of the S/Defence which I handed to my lawyer. My lawyer never told me what was in it. Braga was the lawyer. Maidin did not act for me. I took no interest in the Statement of Defence because my lawyer was in Singapore. I did not send a covering letter with Statement of Defence to my lawyer. A Malay wrote the envelope for me. I thought my lawyer would do everything for me. I do not know that defendant was sick at the time. I do not know that 4th plaintiff went to Kuala Lumpur to consult a lawyer over defendant's defence.

10

20

I do not know if my father stayed in Ban Seng Leong until he left for China. I stayed in Chua Ban Seng. I do not know if my father owned Ban Seng Leong. I do not know if my father gave a Power of Attorney to Chua Kee Loh before he left for China. I do not know that he gave authority to Kee Loh to look after his business. For some months after the occupation I did not see the relatives who went to Singapore. I did not know what had happened to them. The day 5th plaintiff returned from Singapore was one to be remembered by the whole family.

30

I do not know why 4th plaintiff did not say anything about the bicycles which 5th plaintiff brought with him. For the last 3 days I have not been listening to the evidence in this trial.

I stopped schooling in 1946 when Kee Law died. I do not know if I was longer in school than any of the parties. It is not true that I worked in the Bus Company only running messages for the defendant. My story about the bicycles is true.

40

My shop which I now own I do not know if it belonged to my father. I know something about my father before the war.

RE-EXAMINATION

Re-examined. I remember my father died in 1939. I do not know when I was born. Year of my birth on my Identification Card is 1929. My father died in China while I was in China.

Adjourned to 2.15 p.m. at 1.20 p.m.
Sgd. A. Hamid.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 18

Chua Teng Teck.

Cross-
examination

- continued.

Re-examination.

In the
High Court at
Kuala Trengganu

Plaintiffs'
Evidence

No. 18

Chua Teng Teck.
Re-examination
- continued.

Resumed at 2.15 p.m.

P.W.14 - on former affirmation

Re-examination continued. Defendant gave the present shop to me. Defendant told me that my father and grandfather had shares in Chop Chua Ban Seng. He gave me the present shop for being the share of my father. He gave it before I filed my suit.

Q. Why did you file your suit after he had given you the shop?

A. He gave me an empty shop. The premises of my present shop belong to Tengku Hussain.

10

My claim in the suit was settled by him giving me 80 shares in Union Transport Co. and \$2,000/- and some bicycle accessories.

On the information given to me by defendant I had my Statement of Plaint prepared. Defendant came to see me in relation to my suit against him. He scolded me. He told me that my father predeceased my grandfather and that how could I say my father and my grandfather had shares in Chua Ban Seng and that it was not right of me to file my claim. He further told me that Chua Ban Seng belonged to my grandfather.

20

In my Statement of Plaint I did not mention any of the plaintiffs.

Q. Why did not you mention them?

A. Because they had nothing to do with the claim.

One Tay Wee Jin of Chop Hong Bee introduced me to Braga.

I went to your (Maidin) office with defendant and one Lee Boon Siang of Kuala Lumpur to draw up the settlement agreement.

30

The day when 5th plaintiff returned to Kuala Trengganu was not only a day of joy but also of sadness because of the presence of the Japanese.

Case for Plaintiffs.

Sgd. A. Hamid.

Resumed at 4.30 p.m.

No opening speech for the Defendant.

No. 19

EVIDENCE OF KARANACHEIRL KOSHY GEORGE

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 19

10 D.W.1. - KARANACHEIRL KOSHY GEORGE a/s in English.
Court Clerk and Interpreter in the High Court, Kuala
Trengganu. Part of my duty is to look after the
Court records. I have with me the file in C.S.
No.6/52. I produce the Statement of Plaintiff and the
Statement of Defence. (Maidin objects to production
of the documents. Statement of Defence in this
suit. 0.5 rr.1, 2 and 3. R.3(h) - None in the State-
ment of Defence. 0.12 r.3. These documents were
not in the possession of the parties 0.9 r.1. State-
ment of Defence herein is bad.

Karanacheirl
Koshy George.
Examination.

20 Ironsides - Not a document in the possession of
the defendant. Cannot disclose a document which I
have not got. The law requires to disclose own
document. At the time of filing Defence we had no
control over those documents. Summons been issued
for production of the documents. The plaintiffs
have had 10 months notice that we required the docu-
ments on the first day of the hearing which was in
October. Would the plaintiffs be prejudiced by the
inclusion of the documents 0.12 r.3.

Maidin - 0.5 r.3(h) is clear.

Ironsides - Court is not to look at 0.5 r.3 at
this stage. It enumerates requirements in form of
a Written Defence.

30 Court grants special leave for the documents to
be admitted).

Admitted and marked - S/Plaint Exhibit D3.
S/Defence Exhibit D4.

40 I also produce the Power of Attorney No.60/1357.
This is a certified translation of it. (1357 cor-
responds to 1938). Chua Ah Poi is the donor and
Chua Kin Loh is the donee. Chua Ah Poi's address is
No.13 Kampong Daik, Kuala Trengganu. These are the
Power of Attorney and its translation. Tendered,
not objected to, admitted and marked Exhibit D.5.

No Cross-examination.

By Court Exhibit D5 was registered on 3.9.1938.

Adjourned to Kota Bharu to a date to be fixed.

Sgd. A. Hamid.
25/8/55.

In the
High Court at
Kuala Trengganu

In Open Court at Kota Bharu this 13th day of
December, 1955.

Before me,
Sgd. A. Hamid
Judge.

Defendant's
Evidence

No. 20

No. 20

EVIDENCE OF CHUA CHEE CHOR

Chua Chee Chor.
Examination.

Ironside calls:

Defendant - CHUA CHEE CHOR a/s in Hokkien. I live
at No.232 Jalan Kedai Binjai, Kuala Trengganu. I
claim to be proprietor of Chop Chua Ban Seng.

10

I came from China to Kuala Trengganu in 1924.
When I arrived the other members of my family here
were my father and elder brother named Ah Poi. My
father left China for Malaya in 1922 and Ah Poi in
1923. Both were ricksha pullers when I arrived
here. My first job here was an employee of Chop
Sin Guan Hing which was a bicycle shop. I worked
there for about one year during which I lived on
my employer's premises. At that time my father and
Ah Poi lived at a shop-house in Jalan Kedai Binjai.
I next opened a bicycle repairing shop in a portion
of a shop-house. I had a piece of paper as a sign-
board with the chop name of Ban Seng, not Chua Ban
Seng. I had however a business stamp with the name
of Chua Ban Seng. Since then I have been using
both names. After a year I moved my business to
another shop No.232 Jalan Kedai Binjai which was
formerly No.164 or 145 Jalan Kedai Binjai. I rented
the premises from Tua Tan Hong at \$10/- rent per
month. At that time my father and Ah Poi were still
pulling trishas. My father continued to pull trisha
till 1929. He had no interest in my business at
all. After I moved to No.232 my father and Ah Poi
came to live with me in the same house. They kept
their richsha in my former business premises where
several other richsha pullers operated from.

20

30

Ah Poi left for China in 1926 owing to bad
health.

The next members of the family to arrive in
Kuala Trengganu were my mother, Chua Kee Law and
Chua Kim Swee. They arrived in 1926. Kee Law
worked as a ricksha-puller.

40

My father went to China in 1929 because of his
bad health and old age.

Ah Poi returned to Kuala Trengganu in 1929 after my father had left. Ah Poi then worked as a richsha-puller. In 1930 he went to Java to work as lorry attendant.

In the
High Court at
Kuala Trengganu

My father returned to Kuala Trengganu in 1930 with Chua Kim Yong who was a very young boy then. After that there were several goings and comings among members of the family.

Defendant's
Evidence

No. 20

10 There was a business opened at No.13 Jalan Padang, by the name of Chop Ban Seng Hin. It was opened by Chua Kee Law and owned by him. His wife stayed with him at No.13. It was opened about 1932.

Chua Chee Chor.
Examination
- continued.

20 There was another business at No.13 Jalan Kampong Daik by the name of Chop Ban Seng Leong. It was opened in about 1934. The proprietor was Ah Poi. Ah Poi and his family stayed there. Some years later Ah Poi fell ill and returned to China in 1938. When he went to China he appointed Kee Law to be his attorney. Exhibit D.5 was the Power of Attorney. Kee Law appointed Chua Say Teong as the business manager of Chop Ban Seng Leong. Chua Say Teong managed that business till 1940 when he started his own business. Kim Yong took over the management from Chua Say Teong. Kim Yong's wife went with Kim Yong to Chop Ban Seng Leong.

In 1940 Chua Kim Swee opened a business at Jerteh known as Seng Ban Seng. It was owned by Kim Swee himself.

30 It is not true that all those shops were branches of Chop Chua Ban Seng or Chop Ban Seng.

Just before the Japanese invasion Kee Law, Kim Hoon, Kwong Keh San (F) and my father went to Singapore with the purpose of going on to China. They left Trengganu about 10 days before the outbreak of hostilities. My father died shortly afterwards in Singapore. It was several months before I saw the other member of the family again; 5 to 6 months later.

40 Kim Hoon did not return to Kuala Trengganu with bicycles; he came back empty-handed. Kee Law returned to Kuala Trengganu with injuries on his body. After his return Kee Law stayed in Chop Ban Seng Leong. It is not true that he stayed with me. His wife went to stay with her husband. Kim Yong and his wife stayed in Chop Ban Seng Leong too.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Examination

- continued.

In 1946 Kee Law died.

When the Japanese came to Kuala Trengganu my shop was taken over by the Japanese government. By "taken over" I mean 2 or 3 Japanese soldiers posting a piece of paper on which Japanese characters on the front door of the shop. From the signs those soldiers made I understood that I was not to move anything out of the shop and that I was to take them around the shop. I did not take out anything from the shop. The Japanese came again about one week after the posting of the notice and they removed all the goods out. It is not true that the shop was full of bicycles. Every bicycle in the shop was taken away by the Japanese. It is not true that Kim Swee brought bicycles and accessories from Jerteh to the shop. It is not true that bicycles were stored on other premises nearby. 10

The Japanese did the same thing to other bicycle shops in Kuala Trengganu.

Kim Swee appeared in Kuala Trengganu about one month after Japanese had entered Kuala Trengganu. He was late because of no transportation. He told me that the Japanese had occupied his shop and all his goods were taken away by them. 20

During the Japanese occupation I was doing business as a broker. I know that a few documents relating to business during the occupation have been tendered in evidence.

(At this stage Court adjourns for a few minutes for witness to have a drink as he complains of bad throat). 30

I did only bicycle repairing during the occupation. I also did business in second hand bicycles then; it was very small business. I made money on black market business.

From 1925 onwards I continued to live on the same premises. From time to time various members of my family stayed with me since 1925.

Chop Ban Seng Hin ceased in 1941. During the occupation Chop Ban Seng Leong was still in existence. 40

In 1952 Chua Teng Teck instituted a civil suit against me. In that suit he claimed that his father,

10 Ah Poi, was a partner in Chop Chua Ban Seng. At the time the suit was filed I was very ill. Kim Yong assisted me in my affairs during my illness. Kim Yong worked for me for several months. He first worked for me in my shop in 1948 which was after my return from China. He did certain translations of some English correspondence for me. He had access to all my books and papers. He was at one time a cashier and at another time manager of Trengganu Bus Co. Ltd. He represented me at various director's meetings. He went to Kuala Lumpur to instruct Shearn and Delamore on my behalf in connection with 1952 suit. He took with him all the papers necessary. Among the papers was a Business Registration Form.

I registered my business in 1947 under the name of Chua Ban Seng. My name was shown as Chua Boon Keng and described as sole proprietor.

20 Kim Yong also had with him the correspondence with the Income Tax Dept. They are in Exhibit D.1.

In 1952 suit these documents were attached to my Statement of Defence.

All instructions to Shearn & Delamore were given by Kim Yong.

In that Statement of Defence I was described as the sole proprietor. The Statement of Defence was brought to me for signature in Kuala Trengganu by Kim Yong. The contents were explained to me by Kim Yong. I signed it, after which it was returned.

30 Kim Yong knew all my matters with the Income Tax Dept. and Business Registration. He knew of my claim that I am the sole proprietor of Chua Ban Seng. My proprietorship was never questioned so far.

40 In 1952 Kim Swee started his own business. I now say that Kim Swee opened his own business since 1948. In 1952 Kim Swee borrowed money from me. He borrowed cash and goods from me for which I obtained documents from him. X, Y, W, are the documents now marked as Exhibits D.6, D.7 and D.8. They were not signed by Kim Swee as blank pieces of paper. They were complete when signed. They have Chua Ban Seng's letter-head. In November 1952 I wrote to Kim Swee demanding repayment. The letter is No.5 in Exhibit D.1. After this demand there was trouble in the family.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Examination

= continued.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Examination

- continued.

Kim Yong started his own business. Kim Yong also borrowed from me.

Kim Hoon started his own business. He borrowed money and goods from me too.

Up to 1952 no one even suggested that Chop Chua Ban Seng was a family concern. There were no family conference about distribution as alleged. My father left no estate to be distributed.

There was a Bus Company known as Tai Seng Sin Kee which started in 1938. I had interest in that Company. I had $10\frac{1}{2}$ shares in the company. Kee Law had $3\frac{1}{2}$ shares. My and Kee Law's shares were held in Kee Law's name. My shares were in Kee Law's name because I handed money to him to buy the shares for me. I went to China about that time. While I was away Kee Law represented my interest in that Bus Company. Kee Law sold his $3\frac{1}{2}$ shares to Kong Ah Hock. On my return from China my shares were passed into the name of Chua Ban Seng.

10

I was also known as Chua Boon Keng, Chua Ban Seng, Chua Chee Cha and Chua Boon Kin. I cannot say if it was the practice for the proprietor of a business to be called by the name of the Chop. I was known by the whole town as Chua Ban Seng.

20

In 1946 Kong Ah Hock transferred $3\frac{1}{2}$ shares to me.

Tai Seng Sin Bus Co. was later merged into Trengganu Bus Co. In 1946 Union Bus Co. was formed and I had 51 shares in this Company. I bought the 51 shares with profits I made in black market business. There was amalgamation of bus companies when a limited transport company was formed.

30

In 1951 a fresh capital was required. I had money for the fresh capital. I paid up with borrowed money. I had no money of my own to pay up. Later I transferred 162 out of 170 shares to Chua Liew Kiew who was the person advancing me money for the fresh capital.

The 1952 suit was settled. Che Maidin had been my retainer for some years. The last year he held the retainer was in 1952, up to the end of it. The 1952 settlement agreement was drawn by him. Out of shame I settled the suit. There were discussions in the family before the settlement. By "shame" I

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mean Kim Swee and Kim Tong told me that they were my younger brothers and parentless and that he was sick. They also told me Chua Teng Teck was my nephew and they advised me to settle. I told Che Maidin to draw up the settlement agreement.

After the occupation I resumed bicycle business. I had no stocks to start with at the time. A year after the occupation I got goods arrived from Robinson & Co.

10 Adjourned at 1.10 p.m. to 2.30 p.m.

Sgd. A. Hamid.

Resumed at 2.30 p.m.

Defendant on former affirmation.

Examination-in-chief resumed. - Robinson & Co. resumed business about one year after the occupation. I ordered goods from Robinson as soon as they resumed business. Before the Japanese occupation nobody amongst the persons who went to Singapore ordered goods from Robinson.

20 The Japanese removed more than \$2,000/- worth of goods from the shop. It was not more than \$3,000/-.

I did not change the shop's name from Chua Ban Seng to Ban Seng after the occupation. I have been using both names all along.

The Business Registration Form, No.3 in Exhibit D.1 was in the name of Chua Ban Seng - Form is marked Exhibit D.9.

CROSS-EXAMINATION

30 Cross-examined. Exhibit D.9 was made in 1947 when Kim Yong was in China. Kim Yong did not know about the registration.

In respect of 1952 suit I consulted Shearn & Delamore direct without any reference to you (Maidin) But Kim Yong referred to you (Maidin). As I was sick I asked Kim Yong to consult you before the Defence in 1952 was filed or not but I do not know whether he did it or not. I did not tell my present counsel (Ironside) that I instructed Kim Yong to consult you (Maidin) in respect of 1952 suit.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.
Examination
- continued.

Cross-
examination.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Cross-
examination

- continued.

I know Lee Boon Siang. He was the person who effected settlement between me and my nephew. I, my nephew and Lee Boon Siang came to you to have the agreement of settlement prepared. Kim Yong did not come with us to you. I came to sign.

Q. Who gave me (Maidin) the instructions?

A. I gave the instructions and Not Lee Bon Siang.

Q. I put it to you Lee Boon Siang gave the instructions and not you.

A. I gave you the instructions because you were my retainer and I paid you \$200/- yearly.

10

I am now 46 years old. I started business in 1925 when I was 16 years old. (Exhibit P.9 is shown to witness). I am standing extreme right in it. I cannot remember when Exhibit P.9 was taken and on what occasion.

I started a small bicycle repairing business with \$60/- to \$70/- capital. It was at Kedai Binjai and I cannot remember the shop-house number, but it is about 2 houses away from my present premises in the same row of shop-houses. It was a dispensary after I vacated it. I moved into present premises in about 1926. Ricksha pullers shared the same premises as my repairing business. There were about 5 ricksha pullers on the same premises excluding my father and Ah Poi. My father and Ah Poi lived on the same premises. I took food separate from my father and Ah Poi. I was on speaking terms with my father. I did not have food with my father because he was messing with other ricksha pullers.

20

30

It was in 1925 when I had my business written on a piece of paper which was hung on the door. I had no spare parts or bicycles to sell. My earning for a day was \$1/- to \$1.50. Kuala Trengganu 30 years ago was not very dull.

Q. Why did you not put up a decent sign-board?

A. Because my business was small.

Sign-board is very important and sacred to Chinese business. Most Chinese have a ceremony for putting up signboards. I did not have a ceremony when I put up my signboard. Sign-board is just as important to me as printed bills. I did not have printed bills when I started business but they were stamped. I first had printed bills three years after I started business; it was after I have moved into another premises which are now No. 232 Jalan Kedai Binjai.

40

I see Exhibit P.10 (shown to witness). It was a bill of my shop. It bears title head Chua Ban Seng.

Q. You claim Exhibit P.10 to be your bill?

A. Yes.

No.232 Jalan Kedai Binjai was once No.145 and earlier No.154.

I see Exhibit P.12 (shown to witness). It was my bill and so is Exhibit P.11 (shown to witness). Exhibit P.12 is Chua Ban Seng and Exhibit P.11 Chua Boon Gim. Boon Gim is my personal name and not my business name. Exhibit P.11 was for my personal correspondence; now I say it was for use in Kota Bharu; I again correct myself, it was for correspondence use.

Exhibits P.11 and P.12 were both for correspondence.

Q. Why did you need 2 letter-heads?

A. I was the agent for Robinson & Co. Whenever I wanted to find out who required Raleigh bicycles I used Exhibit P.11. I used Exhibit P.12 when corresponding with Robinson & Co. and other outside firms when ordering goods for Chop Chua Ban Seng. Chop Chua Ban Seng were the agents for Raleigh bicycles from Robinson & Co. since 1926.

I used Exhibit P.11 only when writing to Kota Bharu because there were agents of Robinsons in Kota Bharu. If my offer written on Exhibit P.11 were accepted I would sell the bicycles obtained from Robinson under the name of Chua Ban Seng. But when I received moneys for the bicycles from Kota Bharu I would use the name of Chua Ban Seng without stating particulars of payment. I used Chua Boon Kim's letter head when demanding payment from Kota Bharu.

I see Exhibits P.3, P.4 and P.5. They are my bill books. When I sent out bills I used those books. I used same books for transactions done in the shop.

Chop Chua Ban Seng are agents for Raleigh and Rudge bicycles. The principal of Rudge is Kee Huat of Singapore. We have their agency since 1949 for Trengganu only. We have sold Rudge bicycles in Kota

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Cross-
examination

- continued.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Cross-
examination

- continued.

Bharu in Chop Chua Ban Seng's name. There are no agents for Rudge in Kota Bharu.

I see Exhibit P.6 (shown to witness). All of them refer to Raleigh bicycles sold in Kota Bharu. They are in my own handwriting under Boon Kim's name. The name of Boon Gim was not printed in English or Chinese but written in my own hand.

Q. Why did you do that?

A. It amounts to the same thing, whether name was printed or written. 10

Q. You had a printed head in 1925 but not in 1953, why?

A. Because Exhibit P.6 was sent to Kota Bharu. But when I sent to Trengganu I used one with a printed letter head of Chop Chua Ban Seng,

I see this letter (25 in Exhibit P.1 shown to witness). I wrote it. It did not concern with Raleigh bicycles. It referred to bicycles but I cannot remember what make of bicycles. "Sang Put Ee Aun" mentioned in the last paragraph of that letter means agreement to accept the offer. List 05/2 mentioned in that letter was in respect of charges of business of bicycles of what make I cannot remember. 20

I see Exhibits D.6, D.7 and D.8 (shown to witness). Exhibit D.6 is in my handwriting. I agree that the signature is right at the bottom of the paper. Exhibit D.8 is in respect of cash loan of \$4850/- and another sum. The \$4800/- included costs of bicycles which Kim Swee borrowed from me. The sum of \$1376.15 represented cash. Now I say \$4850/- was not actual cash but costs of bicycles. I lent to Kim Swee in all about \$7,000.00, Kim Yong about \$9,000.00 in goods and cash and Kim Hoon about \$7,000.00, all in 1952. 30

Q. Because you could afford to lend about \$23,000/- your business at Chop Chua Ban Seng must have been very good?

A. My business was fairly good. I had to sell shares as well.

In 1952 I sold on the average of 100 bicycles in a month. I have been keeping account books since Business Registration. I sent my Income Tax regularly. 40

Adjourned at 4.53 p.m. to 9.45 a.m. tomorrow.
Sgd. A. Hamid.
13.12.55.

Resumed at 9.45 a.m. on 14.12.55.

Defendant reaffirmed

Cross-examination resumed: - I moved into present premises about a year after I opened my small business. This was in 1926. I occupied the whole premises of No.164 when I moved into it. My business was fairly well and that was why I wanted larger premises. My father and Ah Poi moved into No.164 with me. They did not take food with me. They took food with their fellow richsha-pullers.

10

Q. Why did they follow you into No.164 then?

A. Because there was accommodation for them upstairs.

I did not take food at home regularly. For that reason I did not have them to take food with me.

I know Dato Sangsura Pahlawan (P.W.5.) I did not hear all he said in evidence because he gave it in Malay. His evidence was not interpreted to me. It is not true that he lent \$100/- to my father to buy a bicycle for hire. I say so because no new bicycle was bought in that year. I can ascribe no reason for P.W.5. giving such evidence. He has no ill-feeling towards me. He is a respectable person.

20

I know Lim Kai Cheng (P.W.11.) All I know of him is that he does small business in Kuala Trengganu. He and I had a grudge over the appointment of directors in the Bus Company. I cannot remember if he was cross-examined on the point or not. I cannot remember if I told my counsel of it.

30

I did not have or keep any account books before the Business Registration. Since 1936 I had some note books relating to business. From 1936 till Business Registration which was in 1947 I had 2 shop assistants named Chua Ah Hong and Lee Boon Kim to assist me in the business. Chua Ah Hong is the same as Chua Kim Hoon who is No.5 plaintiff. My brother Kim Swee also assisted me part-time as he was schooling. Chua Say Tiong, a relation and Kim Yong assisted me too during those years. My brothers worked as apprentices - to learn the business. They worked only when they liked. I paid them.

40

Q. How much did you pay each of them?

A. No definite sum.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Cross-
examination

- continued.

In the
High Court at
Kuala Trengganu

Defendant's
Evidence

No. 20

Chua Chee Chor.

Cross-
examination

- continued.

Some of them took their food in my shop, some in the shop of my brother Ah Poi. They also went to Kee Law's place for food.

Exhibit P.4 is one of my cash sale books, so are Exhibits P.2, P.3 and P.5.

Kee Law had nothing to do with Chop Chua Ban Seng between 1936 and the time of his death. He assisted me in one period when I returned to China. It was in 1938. I came back from China in the latter part of 1939. I remained in Kuala Trengganu since then. At times he assisted me when I went to Singapore and outstations. He assisted me in the work which my shop assistants did not know. Whenever my assistants had difficulty in the sales they would consult him.

10

Exhibit P.2 is in the handwriting of Kim Swee. Now I say I cannot tell whose handwriting. Page flagged (1) (No.1 in Exhibit P.1) is dated 8,8.28 (Chinese) (corresponds with 1939). I do not know who wrote it but it bears Kim Swee's signature. Page flagged (2) (No.2 in Exhibit P.1) is dated August 28 (Chinese) signed by Kim Yong but I do not know who wrote it. I did not have a clerk at the time, so whenever I was away my wife would get someone to write the books. My brothers helped me at times only.

20

My father died at the age of 60 years over. In 1925 he would have been about 45 years.

Page flagged (27) in Exhibit P.7 is in my handwriting. Exhibit P.7 was kept by me. It is a 1941 book. I alone did not write Exhibit P.7. I cannot recognise the handwriting of the other persons who wrote it. Page flagged (28) contained my handwriting. I cannot say if Kim Yong wrote in that page. Page flagged (30) in Exhibit P.7 contained my handwriting but I cannot say if Kim Yong wrote on it. It was in respect of 1943.

30

I did brokerage in 1942 and 1943.

Q. Was it in your own name or Chop Chua Ban Seng?
A. It is the same.

40

Exhibit P.7 is the book I used in the brokerage business. I did not have definite number of assistants in those 2 years. Chua Ah Hong, Chua Kim Swee were the 2 assistants. Kim Yong did not assist me.

Kim Yong may have made entries in Exhibit P.7.

I purchased 3 rubber lands and one Town Lot land during the occupation. I have sold the Town Lot land and a rubber land in 1952. I owed Chua Kee Eng money and I transferred the Town Lot land to him on 10.1.54. On 13.1.54 I transferred the rubber land to Chua Kee Eng also in payment of debts. I borrowed money from him in 1952.

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Defendant's
Evidence

No. 20

10 I sold the shares in the Bus Companies which I mentioned yesterday in 1951 but transferred them from my name in 1952. It is not true that the actual transfer was made in 1953 after the institution of this suit. I transferred 162 shares to Choo Yew Kiew but I would agree that the actual transfer took place in April, 1953. (Exhibit P.6). (19) in Exhibit P.1 has Chop Chua Boon Gim's title head. (It bears date 29.10.53). I cannot remember since when I started to use Chop Chua Boon Gim but it was since Robinson & Co. complained against me dealing with Kota Bharu. The complaint was in 1948. This is the Robinson's letter "V" for identification dated 14.5.48. I started to use Boon Gim's title head since 1952 when I received another complaint from Robinson.

Chua Chee Chor.

Cross-
examination

- continued.

30 There was no trouble over my father's estate in 1952. In 1952 I was called before the Social Welfare Officer, Kuala Trengganu on the complaint of Kee Law's widow. I cannot remember for what reason I was called. Kee Law's widow demanded \$5,000/- from me. I do not know why she made the demand. Now I say she claimed she had a share in Chop Chua Ban Seng through her husband.

Q. Where is Robinson's 2nd complaint?

A. Kim Yong read it and I do not know what happened to it after that.

"V" does not only refer to Humber bicycles. Robinsons deal in Humber as well as Raleigh cycles.

40 All plaintiffs except 2nd plaintiff are my full brothers. All my brothers owe me money. I sent notices to them demanding payments. They came to me and said that if I wanted the money back they would put me into trouble.

A ceremony was held at Chop Chua Ban Seng in respect of my father's death but no feast. A white mourning cloth was hung on the front door of Chop

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Chua Chee Chor.
Cross-
examination
- continued.

Chua Ban Seng with a cross on it. If the towkay or the father of the towkay died the sign-board of the shop would be crossed in white. I had the cross on the door, not on the sign-board.

Exhibit P.13 which is (32) to (58) in Exhibit P.1 is shown to witness. I was the manager of Chop Chua Ban Seng from 1950 to 1952. I paid salaries to Kim Hoon and Kim Yong during those years for doing miscellaneous work. I paid each of them \$100/- a month. I wrote those payments in the account books. They made entries in the account books and they collected consignments from the Customs. Anybody can collect consignments for me.

10

My sign-board is Chop Ban Seng but the front cloth thick has Chop Chua Ban Seng on it. My bills and my correspondence are in Chop Chua Ban Seng. Chua Ban Seng and Ban Seng are one and the same chop.

My name on Identity Card is Chua Boon Gim alias Chua Choo Chak. I am also known as Chua Ban Seng to the public. Chua Ban Seng is my business name. Ban Seng is not my name, it is the name of my sign-board. Ban Seng was not my name when I started business in 1925. I chose Ban Seng as my business name because they are 2 good words meaning "Multiplying capital and profit" (Interpreter's interpretation "ten thousand year by year").

20

I lost a lot of property during the Japanese occupation, being taken away by the Japs, worth about \$3,000/-. I did not claim from the War Damage Commission. I did not claim because I did not know if I was eligible or not. I know that the Bus Co. claimed from the War Damage Commission. I did not enquire from the Bus Company if I could claim or not. The Bus Company had registration numbers of the buses but I had no record of the bicycles.

30

I gave a Power of Attorney to claim from War Damage Commission in respect of the Bus Company. Exhibit P.15 is the power of Attorney. I signed Exhibit P.15 in the name of Chua Chee Chor.

40

Exhibit P.14 is in respect of Kee Law's 10½ shares which belong to Chop Chua Ban Seng.

Exhibit P.15 was executed in 1953 and Exhibit P.14 in 1939.

Adjourned at 1 p.m. to 2.30 p.m.
Sgd. A. Hamid.

Resumed at 2.35 p.m.

Defendant on former affirmation.

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RE-EXAMINATION

Defendant's
Evidence

No. 20

Re-examined. When I started business in 1925 I was sharing the premises with ricksha pullers. About a year later I moved to the present premises. I rented the whole of the present premises, not sharing with any richsha puller.

Chua Chee Chor.

Re-examination.

10 The Statement of Plaintiff in this suit was filed on 2.11.53.

Kee Law's widow went to Social Welfare Dept. complaining that she had no one to maintain her. The Social Welfare Office called not only me but all my brothers. The Social Welfare Office advised us all to help her. She claimed \$5,000/- from me after we had advised to assist her.

No. 21

No. 21

EVIDENCE OF CHUA LEW KEOW

Chua Lew Keow.

Examination.

20 D.W.1. - CHUA LEW KEOW a/s in Hokkien. 42 years old. Owner of a brick-kiln at No.5 Jalan Paya Bunga, Kuala Trengganu.

I came out to Malaya from China in 1925. My 1st job in Malaya was as an employee in a bicycle shop known as Kock Kee Seng in front of the market at Kuala Trengganu.

30 I know the defendant and his father. My home in China is very near theirs. I knew their family there. Defendant's father's occupation in Malaya was as a ricksha puller. Defendant worked in repairing bicycles when I arrived in Kuala Trengganu. The name of his business was Ban Seng. He was known to the public as Ban Seng, Chua Ban Seng and Chua Chee Chor. He had a school name which I cannot remember.

I next opened my own bicycle shop after working for Hock Kee Seng for some time. I had dealings with the defendant. I used to get goods from him.

I know the elder brothers of defendant. I know

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Chua Lew Keow.
Examination
- continued.

Ah Poi and Kee Law. They each had a shop of their own. Ah Poi's shop was Ban Seng Leong and Kee Law's Ban Seng Heng.

Defendant's father remained a rickshaw puller for some years after defendant opened his shop. After defendant's father retired he stayed in defendant's house. Defendant and I are of the same class. I was well acquainted with his family affairs. I do not know if any one else had an interest in defendant's shop. All I know is that the shop belonged to the defendant. Defendant was the towkay. I am sure Ah Poi and Kee Law had their own shops.

10

About 2 years ago I ceased doing bicycle shop business and started present job.

I am fairly well-known in Kuala Trengganu. I am financially well off. I have no interest in the family dispute between plaintiffs and the defendant. I come to give evidence in Kota Bharu at personal risk to myself.

20

Cross-
examination.

CROSS-EXAMINATION

Cross-examined. Q. What risk are you running into giving evidence in this case in Kota Bharu?

A. There is no risk at all.

Q. Is there any danger to you by being in Kota Bharu?

A. No. When I said there was a risk I misunderstood the question.

Q. Why did you give up bicycle business shop?

A. I had to take care of the brick kiln.

30

The kiln is still my own. The kiln business is fairly sound. In 1953 I supplied 100,000 pieces of brick per month. In 1954 I cannot say how much bricks I sold. I cannot tell the 1952 out-put. I started the business with my own capital of about \$12,000/-. It was my own money. The money was earned by me since I came to Malaya. I invested the money in trisha business and in my shop before I used it on the kiln business. I did not invest the whole of my money in my shop or trisha business.

40

I owned 50 to 60 trishas in my own name. I did have cash of \$4,000/- to \$5,000/- when I wanted to start the kiln business. I started the brick kiln

business in 1948 with 3 other partners. \$12,000/- was subscribed by me and those 3 other partners.

I bought over the shares belonging to the other 3 shareholders after the kiln had been in operation for one or two years. I paid those 3 shareholders about \$9,000/- for their shares. I cannot remember when I bought them over. I still had the bicycle and trisha business when I bought over the whole shares.

10 I stopped dealing in trisha and bicycle business early in 1954. I sold those trisha and bicycle business for more than \$9,000/-. I cannot tell the approximate amount because I sold them bit by bit. I kept some of the money in my safe and some I invested. I started to sell bit by bit before 1953.

20 I know Chua Say Teong. I do not owe him a single cent. I know Ah Moi. I do not owe him any money. I know Kiat. I owed him money but I have paid him back. I borrowed money from Ah Moi but not Chua Say Teong. I know Seong of the hospital. I did not owe him any money. I cannot remember when I borrowed from Ah Moi or when I repaid him. Neither can I remember when I borrowed from Kiat or repaid him.

I had cash of how much I cannot say in 1952.

30 I paid \$9,000/- to the shareholders because the kiln business was flourishing in 1951. The business was also doing well in 1953. I had a banking account once in Kuala Trengganu bank but not now. I do not remember for how long I had the banking account and when it was. I cannot remember if my account was closed in 1953. I stopped the banking account because a European in the bank tore two of my cheques. You (Maidin) know about it.

Q. Why did you stop the banking account?

A. Because of the European tearing those 2 cheques. Those 2 cheques were given to me by a contractor.

40 I did not receive a subpoena to attend court in respect of this suit. Three days ago defendant asked me to attend Court. It was the first time he asked me. He never spoke to me about this case before. I stayed with 2 or 3 persons in a hotel here (Kota Bharu).

No re-examination.

In the
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Defendant's
Evidence

No. 21

Chua Lew Keow.

Cross-
examination

- continued.

Case for Defence

Adjourned at 4.25 p.m. to 9.15 a.m. tomorrow.
Sgd. A. Hamid
14/12/55.

In the
High Court at
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Resumed at 9.15 a.m. on 15/12/55.
Parties as before.

No. 22

No. 22

Closing Speech
for the
Defendant.

15th December,
1955.

CLOSING SPEECH FOR THE DEFENDANT

Ironside addresses:-

Ironside tenders a typewritten submission on the first part of the case. Reads it out and comments.

SS.110 Ev. Ordinance.

Not disputed that members of the family conducted sales and made out bills and made entries in the books. These do not create evidence of proprietary interest. Exhibit D.5. What was the object of giving the Power of Attorney if he had no interest in the property? Kim Yong is the most intelligent among the brothers. What bicycle shop in the country even with present day prices carries goods worth about \$45,000/-? Not a single document relating to pre-war period written or signed by the father, Ah Chee. Evidence pointed to Ah Chee living with defendant for a number of years. If Ah Chee was really the owner we would expect him to have left a Power of Attorney when he left for China; particularly so when he was leaving because of the impending war.

10

20

Defendant has given his evidence in a candid and straightforward manner. No burden on defence to prove anything. Only reason for me adducing evidence was to give Court explanation to certain aspects of the case.

30

Defendant's cross-examination: - he was never shaken.

Questions which should be put to defendant were never asked at all. Defendant was not questioned as to various residences as alleged by Plaintiff against defendant's assertion that he stayed continuously at Chop Ban Seng. Defendant was not asked on numerous demands for distribution. No question on the building which was to be put for the family.

40

Defendant's evidence as to how Shearn & Delamore were instructed by Kim Yong. Not challenged in cross-examination.

No questions on the stocks on the premises and coming to the premises.

10 The shop's signboard was not crossed on the death of the father. On the whole, defendant's story was unchallenged. Defendant was not attacked on any essential point. D.W.2. was cross-examined on his own personal affairs but not on his evidence of Chop Chua Ban Seng. No suggestion let alone evidence of ownership but administration that the father assisted in the business.

The various shops belonged to individual brothers.

Ah Poi's Power of Attorney - Exhibit D.5.

In the
High Court at
Kuala Trengganu

No. 22

Closing Speech
for the
Defendant.

15th December,
1955

- continued.

No. 23

CLOSING SPEECH FOR THE PLAINTIFFS

Maidin addresses:-

20 Main issues submitted by Braga at the start of the trial. Defendant's affidavit in support of his application for extension of time to file Statement of Defence. It is in Court file No.(10). Defendant is 46 years old in his evidence. He was 16 years old in 1925 when he alleged he started business.

Is it believable that a person of such age to start a business while his elder brothers did not start their business.

30 It is true plaintiffs were young at the time and not in a position to know what happened in 1925. It is probable that some of them might remember parts of what happened and some other parts.

Plaintiffs would be liars if they all spoke on same points and agreed with each other.

Plaintiffs called witnesses who have no interests in this suit, persons of character.

Is it true or believable for a businessman to have signboard with Chop Ban Seng and all his documents with Chop Chua Ban Seng?

No. 23

Closing Speech
for the
Plaintiffs

15th December,
1955.

In the
High Court at
Kuala Trengganu

No. 23

Closing Speech
for the
Plaintiffs.

15th December,
1955

- continued.

Power of Attorney, Exhibit D.5. It does not concern plaintiffs. What was behind Exhibit D.5 cannot be apprehended. No point in cross-examining defence witnesses on points the answers to which were bound to be in the negative.

Exhibit P.1 are important to Plaintiff's case.

From Ex. P.1. all the brothers were involved in the shop because it was the shop of their father.

Exhibit P.2 evidence of P.W.1 on it.

Not a word that Kee Law was ever a shop assistant from the defence evidence. 10

Plaintiffs were young in those days and depended upon their elder brother. Most unnatural for elder brother to be sued unless for some very good reasons which could not otherwise be avoided. Statement of Plaintiff and Statement of Defence in 1952's Civil Suit would show clearly what the claim and the defence was. Chua, Leong and Seng mean the same "shop".

Shop during the occupation was not under complete control of the defendant. 20

Exhibit D.9 - Registration of Business Form made in 1947 in the name of Chua Ban Seng. Trouble started from this. Why my name "Maidin" is being mentioned on page 3 of the typewritten submissions of defence counsel.

P.W.13 mentions of "Chua Man Seng". Maidin comments and replies to points mentioned in pages 3, 4, 5 & 7.

Why were the 5 bicycles given to Kim Hoon? To keep Kim Hoon quiet. Kim Yong acted for himself and co-plaintiffs. 30

(Maidin says that he was not instructed by P.W.6 as to bicycles he was bringing back from Singapore in the Tongkang. It was unknown to me).

Defendant's evidence cannot be believed at all.

D.W.1 spoke of his big financial position till his proper worth was brought out in cross-examination which proves that he is not of any substance.

D.W.1 was first time approached to give evidence a few days 40

Exhibits P.6 to P.8 according to defendant was to deceive his principal.

He was dishonest and fraudulent.

No. 24

RESERVATION OF JUDGMENT

Judgment reserved. To be delivered at Kuala Trengganu.

Ironside is excused from attendance.

Sgd. A. Hamid.
15/12/55.

In the
High Court at
Kuala Trengganu

No. 24

Reservation of
Judgment.

15th December,
1955.

No. 25

NOTES OF EVIDENCE BEFORE HAMID J.

No. 25

Notes of
Evidence before
Hamid J.

10 In a case of this nature for obvious reasons the strictest of proof is required from the Plaintiffs to establish that the property which is in the possession of the Defendant was in fact that of the deceased, The Plaintiffs are up against two weighty barriers:

(1) the provisions of Section 110 of the Evidence Ordinance.

(2) accounting for a very long delay in taking this action,

20 The Plaintiffs would have to substantiate their allegations firstly re ownership of Chop Chua Ban Seng (and that they have not done). On top of that they would still have to prove that the Defendant had purchased the shares and land that they also claim, out of the profits of Chop Chua Ban Seng. The proof of that is a separate matter and that too the Plaintiffs have not even begun to establish. Quite apart from anything else it would be asking the Court to find that the trading profits of Chop Chua Ban Seng during the Jap Occupation period were very considerable to enable the purchase of this land and shares, a proposition which is totally unacceptable in itself.

30 These lands and shares (and the land held in Kim Swee's name) could only have come from the proceeds of the black market deals of Jap and B.M.A. times.

None of the outsiders who gave evidence about the position of Chua Ah Chee in relation to Chop

In the
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No. 25

Notes of
Evidence before
Hamid J.

- continued.

Chua Ban Seng were in any position of confidence or close proximity to the affairs of the firm. It is common ground that for some years Ah Chee lived on the premises. It may well be that outsiders could honestly assume that the father in the house was the proprietor of the business, though it may not even be true that they had any such belief. In any case such evidence of impression as has been given, bald as it is, is totally inadequate and is collectively unworthy of being considered.

10

What the Plaintiffs claim is that the Defendant has no property of his own, everything he has is properly part of his father's estate.

It would not be inappropriate to remark that no litigant who is prepared to perjure himself as these Plaintiffs can expect any Court to adjudge anything in their favour.

It is however common ground that:

- (a) Chua Ah Chee was a rickshaw puller.
- (b) The business of Chop Chua Ban Seng started about 1925. 20
- (c) For sometime after this business began Ah Chee continued to pull his rickshaw. (This important point first merges in the re-examination of the witness Lim Khai Chang. Is it likely that a man who was in poor health would continue to pull a rickshaw and put his son in charge of the easier occupation of running a bicycle shop? Is it not more consistent that the shop was not his but the son's?). 30
- (d) Right throughout the Jap occupation period, and since then the shop has been in the charge of the Defendant. (This account is admitted by Chua Kim Yong though certain others allege that they shared the management).
- (e) The business has been registered since the time that registration was first required, i.e. 1947, and in the name of Chua Chee Chor as sole proprietor. (N.B. It was registered as Chop "CHUA BAN SENG" not "BAN SENG" - thus answering the implied suggestion that name had been altered in order to steal a business) 40
- (f) Certain transactions were conducted by the

various brothers from time to time in the shop and Customs clearances were effected by several of them. (This goes only to show that the brothers did assist from time to time and adds nothing to the Plaintiffs' case).

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- (g) Kee Lau at one time held shares in the Trengganu Bus Company.
- (h) These shares were later transferred to the Defendant.
- 10 (i) The Defendant later purchased more shares in the Trengganu Bus Co. Ltd.

Notes of
Evidence before
Hamid J.

- continued.

(A clumsy attempt has been made to suggest, though nothing more than these shares were transferred by fraud. Let us bear in mind that Che Maidin was Secretary from 1938 to 1949. And we must presume that if there had been any shares transferred out of the name of a deceased person that would only have been allowed on production of L.A. There were certain shares in the name of Chua Ban Seng. Clearly again a name by which defendant himself was known, as the proprietors of many Chinese shops are known to the public by the name of the shop. We can consider in this connection the letter to the Road Transport Department dated 3rd April, 1947 (P.16) where the Defendant signed, along with others as a pre-war shareholder, with the name "Chua Man Seng". The Power of Attorney (P.15) speaks for itself. The Defendant was clearly recognised by all the parties to that document as a partner of the former Trengganu Bus Co. Of what value is any oral evidence now brought to suggest the contrary? Over and above that Chua Kim Yong attended on behalf of the Defendant as a director of the Bus Co. as early as 1950 - clearly at that time on friendly terms and in the full confidence of the Defendant - but we have no suggestion of indignation then at the knowledge of the Defendant holding shares in his own name)

20

30

(j) A suit was taken by Chua Teng (Teck son of Ah Poi against the Defendant in 1952. In that suit he claimed to be a partner of Chop Chua Ban Seng. The first Plaintiff went to Kuala Lumpur and give Messrs. Shearn Delamore & Co. the instructions to draw the Defence. (These pleadings are exhibits and it is most important that they be examined) In that Defence is stated the Defendant's claim to be sole-proprietor of Chop Chua Ban Seng. Chua Kim Yong

40

In the
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No. 25

Notes of
Evidence before
Hamid J.

- continued.

stupidly denies knowledge of the contents of that defence. Is it to be suggested that Messrs. Shearn Delamore & Co. invented it? What answer is there to Section 114 of the Evidence Ordinance? Chia Kim Yong clearly gave that instruction and made himself a party to it. In my submission in itself that knowledge at that time and acquiescence in it takes the whole bottom out of the Plaintiffs' case. Is there any consistency between that and Chua Kim Yong's present claim? Let us refer to p.8 of your typed notes to what Chua Kim Yong says as to his instructions to Messrs. Shearn Delamore & Co.

10

In order to create a picture of Chop Chua Ban Seng being a centre of one single chain of shops, the Plaintiffs alleged or commenced by alleging that everybody lived there. Under such circumstances the place would eventually have been a veritable rabbit warren. So many deliberate lies were told on this subject that I can only refer to the record.

20

It will be noted that in the evidence in chief of the first witness Chua Kim Yong it was discreetly omitted to refer to any other premises. "All members of the family stayed in the same premises" When that was broken down it was next claimed that everybody lived there during the occupation period. That too has failed.

The Plaintiffs are conscious of the necessity to account for years of silence, of the policy of the Law being favourable to presumptions arising from lapse of time, i.e. a presumption against the Plaintiffs, a presumption that the Defendant is the owner and has always been so regarded by the Plaintiffs - vide Woodroffe & Amir Ali page 747 - note 4). The gap they have attempted to fill by allegations of demands for distribution and being put off with promises of "later". Is it probable? These allegations of demand are clearly absolutely fictitious - We are told by Kim Swee (No.3) that there was trouble in 1948/49 before he opened business in Jerteh and that as a result of a final demand then the Defendant brandished a knife and told them all to get out of the shop. What action did they take then? None! In 1950 to 1952 Kim Yong remains in a position of utmost confidence in the shop of the Defendant. (He admits he knew all about the affairs of the business.) Kim Swee gets credit from the Defendant in 1952. (His story about signing blank sheets of paper is too childish for words). Kim

30

40

In the
High Court at
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Notes of
Evidence before
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- continued.

10 Hoon even admits that he was told he could come and
get goods from him (i.e. Defendant's shop) and that
he says that he eventually got five bicycles. From
this alone is it not clear that the parties were on
perfectly good terms until 1952? There is no accep-
table evidence to suggest any friction at all. Yet
the Plaintiffs allege that they took action because
they had "discovered" that the Defendant had regis-
tered the Shop in his own name. That discovery
they say was made in 1953 (1) Do we believe that
Kim Yong did not know long previously the contents
of the correspondence from the Income Tax authori-
ties which correspondence is consistent only with
the Defendant being sole-proprietor and that corres-
pondence Chua Kim Yong took to Messrs. Shearn Dela-
more & Co. together with the Registration form "A"
when he instructed them. (2) Chua Kim Yong most
certainly knew by May 1952 at the very latest that
20 the Defendant was registered as sole-proprietor.
And yet on oath he states before 1953 he did not
know - i.e. until they wrote the Registrar of
Businesses (Page 2 of your typed notes).

30 The Plaintiffs try to make out that the shops
run by other brothers were branches of Chop Chua
Ban Seng. We are told (Kim Yong Page 9 of your
notes) they were only repair shops and yet when the
Japs invaded we are also told that unexplained
large stocks of bicycles were moved into Chop Chua
Ban Seng from these so-called Branches. These were
not branches! They were the property of the individ-
ual brothers. Let us refer to the Power of Attorney
(Exhibit No.D5) from "Ah Poi" to Kee Lau (when Ah
Poi went to China in 1938) - A Power which specific-
ally gave over power of management of his (Ah Poi's)
shop in Jalan Kampong Daik. What possible interest
could Ah Poi have had to give a Power of Attorney
to anyone if:

- (i) the father, Chua Ah Chee, was owner of
Chop Chua Ban Seng and
- 40 (ii) the shop (Ah Poi's) in Jalan Kampong Daik
was a branch of Chop Chua Ban Seng?

It is an obviously ridiculous proposition.

The Plaintiffs ask your lordship to believe
that the Defendant has worked all these years from
1925 onwards for the benefit of the rest of the
family, with no salary to himself even suggested,
whilst all the other brothers had their own shops
and made money for themselves.

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No. 25

Notes of
Evidence before
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- continued.

Let us consider briefly some of the witnesses for the Plaintiffs:-

- (1) Chua Kim Yong - His evidence must be completely rejected.
- (a) He claims to have had knowledge of all sorts of things about the family which he obviously could not have had, e.g. happenings long before his arrival in the country.
- (b) By his admission of the instructions of Messrs. Shearn Delamore & Co. in the 1952 case, and his pretence now not to have known what he was doing. 10
- (c) His further pretence of ignorance of the Defendant's affairs when he was in his full confidence.
- (d) His claim to recognise signatures and writings of various brothers (and the 3rd plaintiff's in particular) in numerous documents produced by him (vide page 3 of your typed notes) and then his pretence not to recognise the signature in Exhibits W, X and Y (vide page 11 of typed notes) which was admitted by the 3rd plaintiff himself) 20
- (e) His further pretence of ignorance in regard to Defendant's Bus Company interests is clearly rebutted by his having been for a period the cashier and Manager of the Company, and the representative of the Defendant at the Directors' Meetings. 30

This witness is obviously one of the leading spirits in the conspiracy to crush the Defendant. He claims to know so much and yet denies knowledge of essential features we can prove and have proved were within his knowledge.

Plaintiff No.2. The widow of Kee Lau, wasted the time of the Court in giving any evidence at all. In cross-examination the sum total of what she had to say was "I do not know I do not remember I never interfered in husband's affair I know almost nothing about this case". 40

Plaintiff No.3. Kim Swee (It will be noted that as each one of the brothers entered the box some more decoration was added to the story; new events were spoken of which had not been mentioned before although they would obviously have been of some importance - if true). This one tells us a family building was to be put up, and they all decided to wait for it. (Kim Yong curiously made no mention of such a building.)

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10 He tells us the fantastic story of having signed - not documents of debt - but blank pieces of paper!

- continued.

He tells us further that from his shop in Jerteh he took all his goods to Chop Chua Ban Seng - for what object - what nonsense!

Nothing he says was taken from Chop Chua Ban Seng - not a single bicycle. And yet he admits that the Japs emptied other bicycle shops, and took bicycles of people in the streets.

202 To accept one jot of this man's evidence would be out of the question.

Plaintiff No.4. Kim Hoon. Tells us a story of sheer wild invention based on the latest Hollywood versions of "Sinbad the Sailor". His touching story of the emotional home coming of the long lost son of the family, heavily laden with crates of new bicycles, marks the importance of an event which it did not even occur to his brothers to mention - Because it never happened. And these are the
30 Plaintiffs - not a single one of them worthy of any credit whatsoever.

Haji Long. No intimate knowledge of the family. His evidence takes us nowhere. Ah Chee was such a good friend of his that he has not even discovered that the man died in 1942.

Ng Boon Lin. Obviously suffering from a grievance. He was determined to give evidence about supposed transactions of which he later admitted himself to have known nothing.

40 Tong Ah Leng. One glance at the notes of cross-examination is enough to dispose of this witness.

Lim Khai Cheng. Knows very little of Ah Chee or the family, was never actually in the shop. "used to see" his rickshaw in Jalan Kedai Binjai.

In the High Court at Kuala Trengganu

No. 25

Notes of Evidence before Hamid J.
- continued.

Chua Say Tiong. The Manager of Ban Seng Leong when Ah Poi left - a man whose aspect in the witness box was worthy of note. A vicious man, by no means unintelligent though he pretended to be so when he found himself in difficulty. I suggest he is motivated by a deeprooted envy of the defendant and a green to gain by his downfall.

Ng Boon Seong. Suggest that he too bears a grudge against defendant - an old score whilst they were brother officers of bus company.

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Chua Teng Teck. Obviously been used as a tool by other members of the family.

No. 26

Notes of Argument before Neal, J.

2nd June, 1958.

No. 26

NOTES OF ARGUMENT BEFORE NEAL, J.

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE HIGH COURT AT KUALA TRENGGANU

Kuala Trengganu SC. Civil Suit No.29/53.

- 1. CHUA KIM YONG
 - 2. KWONG KEH SAN
 - 3. CHUA KIM SWEE
 - 4. CHUA KIM YONG
 - 5. CHUA KIM HOON
- ... Plaintiffs

20

v.

- CHUA CHEE CHOR
- ... Defendant

NOTES OF ARGUMENT

In Court this 2nd June, 1958

Before me.

Sd. M.G. Neal.

Judge - F.M.

Maidin for Plaintiffs
Marjoribanks for Defendant.

30

I have drawn attention in Chambers to absence of exhibits. Both sides agree

- 1. I should hear legal argument
- 2. Exhibits should be reconstructed
- 3. Judgment should be delivered on evidence already recorded.

Both Court and parties aware of effect of Bolton v. Bolton.

Che Maidin. Section 41 Evidence Ordinance. Original grant was exhibited, asks that I refer to Court file - L.A. file 8/53 to be put in by consent.

In the
High Court at
Kuala Trengganu

No. 26

Notes of
Argument before
Neal, J.

2nd June, 1958

- continued.

10 On face of grant - order is conclusive proof property is the property of deceased. Sarkar on Evidence 6th Edn. at p.411. As to business Registration. - Refers to evidence of Defendant (page 37 of typed notes of evidence). - Age of 16 years.

Mr. Marjoribanks. Section 41. Section 41 status. Sarkar 9th Edition Page 406 - L.A. conclusive evidence of representation.

Jagan Nath v. Ranjit Singh 25 Cal. 355 at p.370. Section 42 Probate and administration Enactment, Trengganu.

In addition to Section 41 Evidence Ordinance.

Particularly applies in event conflict.

20 Maxwell page 176 - question whether reconcilable or not.

Briggs J. in Dan Sin Wah v. Chan Hai Swee 1951 M.L.J. 189 at 192. "It was contended legislature".

Refers to notes of proceedings (52). - Defendant objected and claimed assets. Sarkar 9th Edition - Commentary.

30 As to Registration of Business Ordinance, Ordinance of 1953 applies as in force at time proceedings brought and Section 6 similar to Sec. 6 old Ordinance.

Section 6 (4) provision.

Business registered under 1947 Ordinance - Application. 9.11.47. Registration 14.1.48.

Under 1953 Ordinance - 3.11.53.

When draftsman drawing Business Ordinance he must have been considering Evidence Ordinance of 1950 - Admin. asking for declaration estopped from relying on schedule to Grant.

40 Maidin in reply: Although Defendant did object to Property Court did make a grant of Letters of

In the High Court at Kuala Trengganu

Administration of that property to Administrator. Defendant took no step to apply to set aside, revoke Letters of Administration or have the assets deleted from grant.

No. 26

Adjourned till 10 a.m. 3.6.58.

Notes of Argument before Neal, J.

In Court this 3rd June, 1958

Before me.

Sd. M.G. Neal.

Judge, F.M.

2nd June, 1958

- continued.

Counsel and parties as before.

10

I deliver oral judgment.

Sd. M.G. Neal.

No. 27

No. 27

Oral Judgment of Neal, J.

ORAL JUDGMENT OF NEAL, J.

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

3rd June, 1958.

IN THE HIGH COURT AT KUALA TRENGGANU

Kuala Trengganu SC. Civil Suit No.29/53

- 1. CHUA KIM YONG
- 2. KWONG KEH SAN (f)
- 3. CHUA KIM SWEE
- 4. CHUA KIM YONG
- 5. CHUA KIM HOON

... Plaintiffs

20

vs.

CHUA CHEE CHOR

... Defendant

Oral Judgment of Neal J.

This case after a lengthy hearing was completed by Mr. Justice Abdul Hamid in the month of December, 1955. At the conclusion of the hearing His Lordship reserved his judgment and up to the time he ceased to be a Judge had not delivered his judgment.

30

An application was made to me that I should, under the provisions of Section 75 of the Civil Procedure Code, Trengganu, deliver judgment on the

evidence recorded by Mr. Justice Abdul Hamid. To this I agreed, but before a suitable date could be appointed, the Rules of the Supreme Court, 1957, came into operation, and unless I make an order under those Rules that the new Rules are not to apply to these proceedings, then Section 75 of the Trengganu Civil Procedure Code has been repealed. For the reasons which I shall give later, and after due consideration of the position I have decided that this is an appropriate case in which I should make an order under the Rules that the Rules of the Supreme Court, 1957, do not apply, and I make that order accordingly.

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I have the full notes of evidence recorded by Mr. Justice Abdul Hamid and I have, by courtesy of Counsel, a copy of the written submission that was put in and full details of oral submissions on behalf of both parties. Unfortunately I have not the original exhibits tendered in evidence before Mr. Justice Abdul Hamid. However, by courtesy of Counsel, I have copies of these with the exception of Exhibits P.9, 10, 11, and 12, and I have considered them. So far as Exhibits P.10, 11 and 12 are concerned, it is in my opinion abundantly clear from the evidence what they were and what they were produced for in evidence before Mr. Justice Abdul Hamid. In my opinion no injustice will be caused by my proceeding to deliver judgment without having them before me. Exhibit P.9 described as a family group photograph has been lost and no copy has been supplied, and it is impossible for me to determine from the record the reasons for the production of this, and whether its absence will in any way affect the line of judgment.

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My attention has been drawn to the fact that there is another Exhibit missing, and that is Exhibit P.16, which is described as a letter written by shareholders to His Highness the Sultan on 3rd April, 1947. According to the recorded evidence this Exhibit was addressed to the Road Transport Department. In any case on the evidence it is clear that it was evidence of the persons claiming at that time to be shareholders of the Company concerned, and that the defendant's name was included and it was so stated in the hearing. Under those circumstances and for the reasons hereinafter appearing I do not think my failure to peruse this particular Exhibit will create any injustice. I propose therefore with the consent of the parties

In the
High Court at
Kuala Trengganu

—
No. 27

Oral Judgment
of Neal, J.

3rd June, 1958.

- continued.

In the
High Court at
Kuala Trengganu

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Oral Judgment
of Neal, J.

3rd June, 1958.

- continued.

and having warned the parties and myself as to the effect of Bolton v. Bolton 1949 W.N. 424 to act under Section 75 of the Civil Procedure Code, Trengganu, and to deliver judgment.

My reasons for doing so are that firstly a number of Exhibits now lost were identified by witnesses by their signatures thereon. In that manner the Exhibit was proved. There seems to me to be insuperable difficulty in proving and identifying them. Without those original Exhibits. Secondly, Counsel for the Defendant has changed and if the evidence were recorded afresh, then it would be necessary for Counsel to get up the case again. That quite properly would mean a second fee for getting up in the action which, in my opinion, would create an injustice. Finally, the additional cost to which the parties would be put, if I failed to act under Section 75 of the Trengganu Civil Procedure Code. For those reasons and because, as far as I can ascertain, no injustice will be caused to any of the parties before me, I proceed to deliver judgment,

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This was a claim for certain declaratory orders and accounts by the Administrator of Chua Ah Chee deceased, three of the sons of Chua Ah Chee deceased, and the Administratrix of another son now deceased, against a fifth son of Chua Ah Chee deceased.

The claim may be broadly said to concern three main assets alleged to belong to the deceased and certain other assets claimed to have been acquired by the Defendant as the executor de son tort of the property of the deceased.

30

The first asset with which I propose to deal is the business known as Chop Chua Ban Seng, formerly of 145 now 232 Jalan Kedai Binjai, Kuala Trengganu. By consent yesterday there was put in evidence before me the file known as SC.L.A. 8/1953 which contains the application for and the grant of Letters of Administration of deceased's estate. This grant of Letters of Administration was pleaded by the Plaintiffs and admitted by the Defence and the Court would have been entitled, even without the file being put in, to refer to the grant, but the putting in of the file has enabled me to derive a little assistance from the proceedings on the hearing for Letters of Administration.

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The Letters of Administration are in the form

provided in the rules attached to the Probate and Administration Enactment. The grant of Letters of Administration sealed by the Registrar on the 21st September, 1953, reads that "administration of all the movable and immovable property in the Federation of Malaya which by law devolves to and vests in the personal representative of the said intestate was granted" and then the form continues "and be it further known that on the date hereunder written these letters of administration were issued to the said administrator, he having given the security required by this Court for due administration of the said property, a schedule whereof is hereunto annexed". It will be noted that the words used are "the said property" and in my opinion they must and can only refer back to the only previous reference to property, that is to say the property of the said intestate. In the schedule is set out a list of property which includes: Stock in trade - bicycles, bicycle accessories, and all goods in the shop which is known as Chop Chua Ban Seng; 51 shares in the name of Chop Chua Ban Seng in Union Bus Co., Kuala Trengganu; 14 shares in the name of Chop Chua Ban Seng in Trengganu Bus Co., Kuala Trengganu.

It has been argued before me by the Pleader on behalf of Plaintiffs that by virtue of the provisions of Section 41 of the Evidence Ordinance and in particular Section 41(2)(d), that the statement of the property of the deceased in the Letters of Administration is conclusive proof that the deceased was at the time of his death entitled to that property.

The first point to be considered is whether or not a Grant of Letter of Administration sealed and issued in a final judgment or an interlocutory judgment. Counsel for Defendant after adjournment yesterday quite properly drew my attention to a quotation from the case of Harilal v. Sarat 43 C.W.N 824 which reads:

"'Final' means the judgment order or decree of such a Court by which the grant is actually issued. An order merely stating that letters of Administration are granted on condition that applicant executes the usual bond is not final."

I have not had the advantage of a reference to the

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of Neal, J.

3rd June, 1958

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report in this case, but if it means that the actual verbal making of the order was not a final order but that it becomes a final order after it is sealed and issued, all preliminary steps having been complied with, then I agree with it. For myself I would have preferred to say that the wording of the Probate and Administration Enactment in my opinion makes it clear that the grant issued by the Registrar under sealed report is a final judgment order or decree and I would rely upon the questions in the Annual Practice of 1957, page 1251.

10

For the Defendant it is contended Section 41 is dealing with statutes and statutes only and what is conclusive is the appointment the administrator as representative. He relied upon a quotation in Sarkar on Evidence which was based on the decision in Jagannath Prasad Gupta v. Ranjit Sing 25 Cal. 355 reported in the Indian Decisions 13 (New Series) page 237. I have read and considered that report and it is clear that the Court in India was dealing only with the question of status to quote from page 246:

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"It was contended for the appellant that the grant of Letters of Administration to the defendant by the order of the High Court dated the 11th September 1885 is a bar to the appointment of the plaintiff as shebait so long as the grant of letters of administration is not revoked. We do not consider this contention to be of much force."

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Then follows the question referred in Sarkar, taken alone that quotation is capable of the interpretation suggested but read in context in my opinion it is not. The Court therefore, as I have said, is dealing entirely with the question of whether one appointment as administrator precluded the Court from making the appointment known as shebait. The Indian Court was not dealing with the question of the letters of administration being conclusive proof of the appointment of Administrator but whether that appointment barred the applied for appointment (apparently not necessarily a conflicting one). It is pertinent to note that an appointment as Administrator is revocable. In my opinion one has to consider the wording of the section itself and the relevant part reads:

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"such judgment, order or decree is conclusive proof that anything to which it declares any person to be so entitled was the property of

that person at the time from which such judgment, order or decree declares that it had been or should be his property."

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High Court at
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10 In my opinion there is no doubt that the Letters
of Administration do declare that the property des-
cribed in the schedule is the property of the
deceased, otherwise the word "said" in the grant
becomes meaningless. It is well established law
that the letters of administration speak from the
date of death. It was then contended on behalf of
Defendant that this section of the Evidence Ordinance
was in conflict with section 42 of the Probate
and Administration Enactment in force in Trengganu,
and reliance was placed on a quotation from Maxwell
on interpretation of Statutes, 9th Edn., page 176.
From this quotation it is obvious the question
arises as to whether or not the provisions are re-
concilable or irreconcilable, but in my opinion the
question comes more under the maxim generalia
20 specialibus non derogant referred to at page 183
rather than the quotation at page 176. At such
reference, namely page 183, on the authority of a
number of decisions commencing with Seward v. The
Vera Cruz in the House of Lords the following pro-
position is put forward:

30 "Where general words in a later act are cap-
able of reasonable and sensible application
without extending them to subjects specially
dealt with by earlier legislation that
earlier and special legislation is not to be
held indirectly repealed, altered or derogated,
from merely by force of such general words,
without any indication of a particular inten-
tion to do so."

40 The first question that he has to be entered is:
Whether the general enactment has in any way dero-
gated or could be said to have derogated from the
words in Section 42 of the Probate Administration
Ordinance. It will be noted that whilst not in
similar terms Section 41(2)(a) of the Evidence
Ordinance, Ordinance is in general terms which
would include the terms of Section 42 of the Pro-
bate and Administration Ordinance which is applic-
able to a special type of person. In my opinion
Section 41(2) adds to but does not derogate from
the provisions of Section 42 of the Probate and
Administration Enactment. It is true that Maxwell
in his quotation (unfortunately the authorities
themselves are not available to me in Trengganu)

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does use the term "altered". In my opinion, having regard to the context, that means "altered" in the sense of "derogated from" and does not mean "altered" in the sense of "added to". In my opinion, therefore, the Letters of Administration are conclusive evidence of ownership of the assets set out in the schedule attached to or rather forms part of that grant.

In the course of argument Counsel pointed out that the interpretation which I have sought to place upon Section 41 of the Evidence Ordinance would mean a situation could be arrived at which was practically nonsensical. Two instances were quoted by him. Firstly, the case of the petitioner for Letters of Administration adding to his petition damages for the loss expectation of life of deceased in a motor accident. As I pointed out during the hearing, the correct procedure is for this to be referred to in both the petition and Letters of Administration as a claim or right of action in which case the Letters of Administration would amount to no more than conclusive proof that there was a claim or right of action. However, the second illustration put forward by Counsel appears to have somewhat more substance. It was pointed out that if a petitioner for Letters of Administration included a debt due by a third party and if my interpretation were correct, it would not be open for that third party to successfully defend the proceedings by the administrator. I agree that it would not be open to him to successfully defend the proceedings by the Administrator under those circumstances, but I do agree that would create a nonsensical or impossible situation. As I pointed out at the hearing the Court has the power to revoke Letters for Administration under Section 28 and also to hear any appeals, from a person adversely affected, against the Grant of Letters of Administration. It is pertinent to note that in the explanation of Section 28 it is expressly stated that where an account or list of the deceased's property, which is untrue in material respect has been accepted, that would constitute a ground for revocation. As to the illustration put forward by Counsel, I would say that the alleged debtor's correct remedy was to apply for adjournment of the proceedings against him and to move the Court under Section 28 to get the debt removed from the Letters of Administration as one of the assets, or alternatively to amend the grant to include a claim for that amount rather than a sum due.

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It was further contended that the Defendant, having registered himself as a sole proprietor of this business in 1948, and in 1953 was entitled to the benefit of Section 6 of the Registration of Business Ordinance, 1953. It is true that that Section raises a presumption in favour of the defendant, but it is expressly provided in sub-section (4) that that presumption may be rebutted on proof and in my opinion Section 41 of the Evidence Ordinance provides that proof when it says in Section 41 (2)(d) that statement of the assets is conclusive proof. For those reasons in my opinion the Plaintiffs are entitled to a declaration that Chop Chua Ban Seng formed part of the estate of the deceased.

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- continued.

In case my interpretation of the law should be wrong I proceed to consider the question in the light of the other evidence available. In addition to the evidence of certain Plaintiffs as the ownership of the business, there were a number of in my opinion independent witnesses who gave evidence on behalf of the Plaintiffs that the deceased was the owner of the business. They are Plaintiffs' witnesses No.7, 11, 12 and rightly or wrongly include the grandson P.W.14. In addition, there is the fact, whilst not admitted in detail is certainly not denied by the defendant, that other proceedings had been commenced by P.W.14 as the administrator of a deceased son. The claim was a claim that his father, a son of the deceased, was a partner in the firm and that was settled by the Defendant by giving 80 shares in a bus company, \$2,000 cash and an un-stated quantity of bicycle accessories. On the evidence before the Court this quite substantial payment was to get rid of an action by a person alleged by the Defendant to have no interest whatsoever. It is absolutely irreconcilable with the contention of Defendant that he was the sole proprietor and in my opinion completely destroys his credibility. It was contended at the hearing that the statement of Defence putting forward the contention that Defendant was the sole proprietor was actually prepared on the instructions of the 1st Plaintiff. There was a conflict of evidence there, and frankly I find it unnecessary to determine that question because at the most the Statement of Defence is only a statement by the Defendant. As I have said, one cannot reconcile that settlement by the defence and the contention before Mr. Justice Abdul Hamid and myself that the sole ownership is with the Defendant. For those additional reasons, if I were wrong in my interpretation of the law, I would

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- continued.

make the declaration asked for with regard to the business.

I next propose to deal with the share in the Trengganu Bus Company. For the reasons which I have stated I consider the provisions of Section 41 (2)(d) of the Evidence Ordinance and the proof of the Letters of Administration entitles Plaintiffs to the order that they seek, or rather to an order that the shares existing at the time of grant and any accumulation thereto are the property of the estate.

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I should perhaps earlier have referred to the notes of the proceedings on the application for Letters of Administration before Mr. Justice Abdul Hamid. It will be noted that at the hearing the Defendant objected and stated that he claimed the assets but otherwise had no objection to the grant. The note is very sparse. It does not show whether or not there was any further statement, argument or evidence. It merely continues that His Lordship made the Order. It has been suggested argument that statement was sufficient to protect the position of the defendant and possible to destroy the conclusiveness under Section 41. I have had recourse to the provisions of the Probate and Administration Ordinance and it is in my opinion abundantly clear that on those provisions especially Section 23, the reason given by the Defendant on the hearing of petition for Letters of Administration does not constitute a ground upon which His Lordship could have refused to issue the grant. It is of course pertinent to note that no attempt was made by the Defendant to have the Letters of Administration set aside, and the notes of evidence on the hearing of the petition do show clearly that he had knowledge of the claim in respect of the ownership of the assets, and also again, in case I am wrong in interpreting Section 41 I proceed to deal with the evidence on the question of these shares. The evidence of P.W.9, P.W.10 and P.W.13 is in my opinion overwhelming and compels one to the decision that the shares which were until the Japanese occupation in the name of the son Chua Kee Law were as shown by the Plaintiffs' witnesses after the reoccupation put into the name of the Defendant for the reasons, which I accept, given by P.W.13 and not, so far as I can advise myself on the evidence, either denied by the Defendant or seriously attacked in cross-examination. In my opinion on that evidence the first Plaintiff is entitled to an order.

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Coming now to the shares referred to as the Union Company or Union Bus Company, I am of opinion that on the Letters of Administration and schedule of property attached thereto the Plaintiffs were entitled to a declaration. However, I proceed to consider the question of the evidence before Mr. Justice Abdul Hamid in case I am wrong in my interpretation of the law. It is to be noted that the Union Company on the evidence before the Court did not come into existence before 1946 - i.e. after the death of the deceased. There is no evidence before the Court to show whose money was used to buy those shares. The only evidence is that the shares at all relevant times were in the name of the Defendant and that the Defendant paid for them. If I am wrong, as I have said in the interpretation of Section 41, it is abundantly clear the Plaintiffs are not entitled to an order in respect of Union Company shares. As I have said the Legislature has said I must accept the Grant as conclusive proof, and therefore I propose to make an order in respect of Union Company shares relying solely on Section 41 although it is abundantly clear that the operation of Section 41 will be in conflict with what undeniably is a fact, that the deceased person at the time of his decease could not have held shares in Union Bus Company. However, so long as those Letters of Administration are there and not revoked, then I am bound to give effect to Section 41 of the Evidence Ordinance.

Now, a number of other declaratory orders were asked for. I propose to deal with them as set out in the amended statement of claim.

As to claim No.2, for a declaration that all the shares now in the personal name of the Defendant are the properties of the deceased. There is in my opinion insufficient evidence before the Court to justify an order on that ground.

A similar position occurs in respect of the third claim for a declaration that K.R.M. 11, 12, and K.S.L. 301 Mukim of Kuala Brang and Lot 330 Township of Kuala Trengganu are the property of the deceased. On the evidence before the Court there is no evidence to show that these belonged to deceased at the time of his death, there is no evidence to show that these were bought with monies belonging to the estate of the deceased, nor is there any evidence from which a reasonable person could draw such an inference.

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High Court at
Kuala Trengganu

No. 27

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of Neal, J.

3rd June, 1958

- continued.

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High Court at
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For those reasons also the fourth claim must be disallowed.

Leaving for a moment the fifth and sixth claims and going to the seventh claim, I am asked to make an order that the Defendant do execute a valid transfer of all the 242 shares in the Trengganu Bus Co. Ltd. to the Administrator of the estate of the deceased. There is no evidence before me to show that the 242 shares were registered in his name at the time. It would be improper for me to make an order concerning those shares if they are in the name of other persons until and unless other persons are brought before the Court to state their case. Another reason why I decline to make an order re the seventh claim is that on the evidence it can be said to be clearly established that at least 121 of those shares were the shares in substitution of shares held by the deceased, but as to the other 121 shares all that is known is that the Defendant paid the money although evidence is clear that he could not have paid money or had these new shares allotted to him unless he had been a shareholder.

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The orders I propose to make are:

1. The business of Chop Chua Ban Seng is part of the estate of deceased Chua Ah Chee alias Chua Kee Peng.
2. The shares set out in the Letters of Administration or any shares issued in substitution therefore are part of the estate of deceased Chua Ah Chee Chua Kee Peng.
3. The Assistant Registrar, Supreme Court, Kuala Trengganu, to take accounts in respect of Chop Chua Ban Seng and the shares referred to in 2.
4. The 1st Plaintiff is at liberty to enter into possession of the business, and in the event of there being restraint by the Defendant appropriate remedy may be taken. (According to the Court records an Interim Receiver of the business was appointed and although he is said to have disappeared this court does not make orders which cannot be complied with or which will enable any party to turn round and say, "It is impossible for me to comply with your order because you have possession").
5. The Defendant to pay to the 1st Plaintiff all monies due to the estate.
6. Plaintiffs will be entitled to their costs.

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In conclusion, may I say that I am indebted to both the Counsel for the assistance they have given me.

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No. 28

 GROUNDS OF JUDGMENT IN THE SUPREME COURT OF THE FEDERATION OF MALAYA IN THE HIGH COURT AT KUALA TRENGGANU Kuala Trengganu SC. Civil Suit No.29/53

1. CHUA KIM YONG
 2. KWONG KEH SAN
 3. CHUA KIM SWEE
 4. CHUA KIM YONG
 5. CHUA KIM HOON ... Plaintiffs

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v.

CHUA CHEE CHOR ... Defendant

 GROUNDS OF JUDGMENT

At the conclusion of the hearing of this Suit I delivered an oral Judgment which was recorded by my Secretary, and I do not wish to add anything to the reasons which I gave in the oral judgment, a copy of which is attached. However, in deciding to act under Section 75 of the Civil Procedure Code, Trengganu, despite the authority of Bolton v. Bolton 1949 W.N.424 I had in mind that in Bolton v. Bolton there was no express statutory enabling provision and also the words of Poyser, C.J. in Seethainayagee Ammal vs. Ramasamy Chettiar, 1940 F.M.S. Law Reports 153, at page 154, second paragraph:

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"In the absence of any statutory provision, it is at least irregular, if not unlawful, for a Judge to continue the hearing of a case which has been part-heard by another Judge, and particularly so where there is, as in this case, a conflict of evidence".

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Sgd. M.G. Neal

(M.G. Neal)
JudgeFEDERATION OF MALAYA
23.6.1958.

No. 29

In the
High Court at
Kuala Lumpur

ORDER OF COURT

No. 29

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

Order of Court.
3rd June, 1958.

IN THE HIGH COURT AT KUALA LUMPUR

Civil Suit No.29 of 1955

BETWEEN

- 1. CHUA KIM YONG the Administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased, 77, Jalan Banggol, Kuala Trengganu. 10
- 2. KWONG KEH SAN (f) the administratrix of the Estate of Chua Kee Law, deceased, Gong Kapas, Kuala Trengganu
- 3. CHUA KIM SWEE, 77, Jalan Banggol, Kuala Trengganu.
- 4. CHUA KIM YONG, 77, Jalan Banggol, Kuala Trengganu.
- 5. CHUA KIM HOON, 62, Jalan Banggol, Kuala Trengganu. Plaintiffs

And 20

CHUA CHEE CHOR alias Chua Boon
Keng, 232, Jalan Kedai Binjai,
Kuala Trengganu Defendant

BEFORE THE HONOURABLE MR. JUSTICE NEAL,
JUDGE, FEDERATION OF MALAYA

IN OPEN COURT

This 3rd day of June, 1958

O R D E R

This suit coming on for final hearing on the 6th and 7th days of October, 1954, before the Honourable Dato Justice Abdul Hamid, Judge, Federation of Malaya, in the presence of Mr. A.J. Braga and Che Maidin bin Mohamed Ibrahim of Counsel for the Plaintiffs and Mr. D.G. Ironside of Counsel for the

Defendant and on the 22nd, 23rd, 24th and 25th August, 1955, before the Honourable Dato Justice Abdul Hamid in the presence of Che Maidin bin Mohamed Ibrahim, Pleader for the Plaintiffs and Mr. D.R. Ironside of Counsel for the Defendant THIS COURT DID ORDER BY CONSENT that this suit be adjourned to Kota Bharu, Kelantan for a date to be fixed and the suit coming for further hearing at Kota Bharu on the 13th, 14th and 15th days of December, 1955 before the Honourable Dato Justice Abdul Hamid in the presence of the parties as before THIS COURT DID ORDER that the suit do stand for judgment and the said judgment not having been delivered and the trial judge having retired AND BY CONSENT this suit coming on for hearing on the 2nd and 3rd days of June, 1958 before the Honourable Mr. Justice Neal, Judge, Federation of Malaya, in the presence of Che Maidin bin Mohamed Ibrahim Pleader for the Plaintiffs and Mr. N.A. Marjoribanks of Counsel for the Defendant AND UPON READING the notes of evidence recorded by the Honourable Dato Justice Abdul Hamid and after hearing what was alleged by the Pleader for the Plaintiffs and Counsel for the Defendant IT IS DECLARED that the business of Chop Chua Ban Seng is part of the estate of Chua Ah Chee alias Chua Kee Peng deceased: IT IS ORDERED that the shares set out in the Letters of Administration or any shares issued in substitution therefor are part of the Estate of the deceased Chua Ah Chee alias Chua Kee Peng; IT IS FURTHER ORDERED that the Assistant Registrar, Supreme Court, Kuala Trengganu do take accounts in respect of Chop Chua Ban Seng and the shares referred to in the aforementioned Letters of Administration IT IS ALSO FURTHER ORDERED that the first Plaintiff is at liberty to enter into possession of the business and that in the event of there being restraint by the Defendant the appropriate remedy may be taken AND IT IS ALSO FURTHER ORDERED that the Defendant do pay to the first Plaintiff all monies found due to the Estate AND IT IS LASTLY ORDERED that the Defendant do pay unto the Plaintiffs aforesaid the costs of and incidental to this suit as taxed by the proper officer of this Court.

GIVEN under my hand and the seal of the Court this 3rd day of June, 1958.

Sgd. (Illegible)
Registrar.

In the
High Court at
Kuala Lumpur

No. 29

Order of Court.
3rd June, 1958

- continued.

In the
Court of Appeal
at Kuala Lumpur

No. 30

NOTICE OF APPEAL

No. 30

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

Notice of
Appeal.

IN THE COURT OF APPEAL, AT KUALA LUMPUR

7th June, 1958.

Civil Appeal No. 23 of 1958

BETWEEN

CHUA CHEE CHOR

Appellant

And

(1) CHUA KIM YONG Administrator of the
estate of Chua Ah Chee alias Chua
Kee Peng deceased

10

(2) KWONG KEH SAN (f) the administra-
trix of the estate of Chua Kee Law
deceased

(3) CHUA KIM SWEE

(4) CHUA KIM YONG

(5) CHUA KIM HOON

Respondents

(And in the matter of Kuala Trengganu
High Court Civil Suit No.29 of 1953

Between

20

(1) CHUA KIM YONG Administrator of
the estate of Chua Ah Chee alias
Chua Kee Peng deceased

(2) KWONG KEH SAN the Administratrix
of the estate of Chua Kee Law
deceased

(3) CHUA KIM SWEE

(4) CHUA KIM YONG

(5) CHUA KIM HOON

Plaintiffs

And

30

CHUA CHEE CHOR

Defendant)

NOTICE OF APPEAL

TAKE NOTICE that Chua Chee Chor the Appellant
above-named being dissatisfied with the decision of
the Honourable Mr. Justice Neal given at Kuala
Trengganu on the 3rd day of June, 1958, appeals to

the Court of Appeal against the whole of the said decision.

DATED this 7th day of June, 1958.

Sgd. Lovelace & Hastings
Solicitors for Appellant.

To,
The Assistant Registrar,
Supreme Court, Kuala Trengganu.

10 And to,
The Respondents abovenamed and/or their
Pleader Che Maidin bin Mohamed Ibrahim,
Kuala Trengganu.

The address for service of the Appellant is care of Messrs. Lovelace & Hastings, Solicitors for the Appellant, No.57 Klyne Street, Kuala Lumpur.

In the
Court of Appeal
at Kuala Lumpur
No. 30

Notice of
Appeal.
7th June, 1958
- continued.

No. 31

No. 31

MEMORANDUM OF APPEAL

Memorandum of
Appeal.

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

12th September,
1958.

IN THE COURT OF APPEAL AT KUALA LUMPUR

20 Civil Appeal No.23 of 1958

Between

CHUA CHEE CHOR ... Appellant

And

- (1) CHUA KIM YONG Administrator of the estate of Chua Ah Chee alias Chua Kee Peng deceased
- (2) KWONG KEH SAN (f) the administratrix of the estate of Chua Kee Law deceased
- (3) CHUA KIM SWEE
- (4) CHUA KIM YONG
- (5) CHUA KIM HOON ... Respondents

30

(And in the matter of Kuala Trengganu High Court Civil Suit No.29 of 1953

Between

- (1) CHUA KIM YONG Administrator of the estate of Chua Ah Chee alias Chua Kee Peng deceased
- (2) KWONG KEH SAN the Administratrix of the estate of Chua Kee Law deceased
- (3) CHUA KIM SWEE
- (4) CHUA KIM YONG
- (5) CHUA KIM HOON ... Plaintiffs

40!

And

CHUA CHEE CHOR ... Defendant)

MEMORANDUM OF APPEAL

In the
Court of Appeal
at Kuala Lumpur

No. 31

Memorandum of
Appeal.

12th September,
1958

- continued.

Chua Chee Chcr alias Chua Boon Keng the Defendant-Appellant abovenamed appeals to the Court of Appeal against so much of the decision of the Honourable Mr. Justice Neal dated the 3rd day of June, 1958, as is in favour of the Plaintiffs-Respondents and against the Defendant-Appellant on the following grounds :

1. The learned Judge erred in law in holding that by virtue of the provisions of Section 41 of the Evidence Ordinance the inclusion of certain properties in the list of properties in the schedule to the Letters of Administration granted in respect of an estate is conclusive proof that the deceased was at the time of his death entitled to such properties as are in the said list. 10
2. The learned Judge failed to consider that paragraph (d) of sub-section (2) of Section 41 of the Evidence Ordinance has applicable only in the circumstances set out in sub-section (1) of the said Section 41 i.e., only where there is a "final judgment, order or decree of a competent Court which declares any person to be entitled to any specific thing, not as against any specific person but absolutely". 20
3. The learned Judge failed to consider that a Probate Court is not competent to make a conclusive judgment in rem as to specific properties. It is only in Admiralty actions that there can be conclusive judgment in rem as to specific properties. 30
4. The learned Judge failed to consider that there is no provision in the Probate and Administration Enactment of Trengganu requiring or empowering the Court to declare absolutely whether any property belonged to the deceased; since under Section 23 of that enactment "no petition for Letters of Administration shall be opposed except on the ground that the petitioner is not the proper person to obtain administration" there cannot be any adjudication of what are the assets of the deceased in proceedings for the Grant of Letters of Administration. 40
5. The learned Judge failed to consider that judgment in favour of the Plaintiffs on the rights alleged to flow from the list of properties in the schedule to the letters of administration changed the character of the suit and the cause of action

to one founded upon a document in the possession or power of the Plaintiffs. In such a case the document or a copy thereof should have been annexed to the Plaint under Section 17 of the Civil Procedure Code (Cap. 6) of Trengganu or the Plaint should have been amended to found the claim on the document and to annex the document to the Plaint. In the absence of such a procedure the learned Judge should not have drawn any conclusive inferences as to what were the assets of the deceased from the list of properties in the schedule to the letters of administration.

10

6. The learned Judge erred in law in holding that the admission by the Appellant in his Statement of Defence as to the Grant of Letters of Administration was an admission as to the assets of the estate of the deceased.

20

7. The learned Judge was wrong in holding on the facts of the case that the settlement of the case with P.W.14 completely destroyed the Appellant's credibility in that the learned Judge did not take into consideration that P.W.14 claimed that his father Chua Ah Poi was a partner of Chop Chua Ban Seng and not as heir to the estate of Chua Ah Chee deceased and in any event except for P.W.14's evidence there was no evidence of giving the share and the fact was not corroborated by the books of the Bus Company and although employees of the Bus Company gave evidence no evidence was given about the transfer of such shares. The learned Judge was wrong in holding that the Appellant did not deny this evidence but the onus being on the Plaintiffs it was for them to have challenged the Appellant as to the correctness of the evidence of P.W.14.

30

8. The learned Judge was wrong in holding that it was not necessary to determine the conflict of evidence of Chua Kim Yong the first and fourth Plaintiff when on such determination only the Plaintiffs' credibility could be depended upon.

40

9. The learned Judge was wrong in accepting the contradictory evidence of the Plaintiffs and their witnesses in that the Plaintiff's pleader himself disclaimed the evidence given by the fifth Plaintiff.

10. The learned Judge should have held that:

- (a) The provisions of Section 41 of the Evidence Ordinance had no application in this case.

In the
Court of Appeal
at Kuala Lumpur

No. 31

Memorandum of
Appeal.

12th September,
1958

- continued.

In the
Court of Appeal
at Kuala Lumpur

No. 31

Memorandum of
Appeal.

12th September,
1958

- continued.

(b) The Registration of Business in Appellant's name and the knowledge of such registration by the Plaintiffs and in any event by the first Plaintiff created a presumption in Appellant's favour.

(c) The Plaintiffs' contention at the start of the trial to the effect that the business carried on by Chua Kee Lau in No.10 Padang and Chua Ah Poi in No.13 Jalan Kampong Daik were all branches of Chop Chua Ban Seng failed and not supported by Plaintiffs themselves and their witnesses. The Plaintiffs realising that such contention would fail in view of documentary evidence "D.5" viz: "A Power of Attorney granted by Chua Ah Poi to Chua Kee Lau wherein Chua Ah Poi described himself as the sole proprietor of the business carried on at No.13 Jalan Kampong Daik" abandoned by such contention at a later stage of the proceedings,

10

20

(d) The Plaintiffs are estopped from denying the title of Appellant in that the first Plaintiff knew about the registration of the shares in Appellant's name as he was representing Appellant's interest in the Bus Company. On 8th July 1946, the Appellant was registered as the owner of shares in the Bus Company and that the first Plaintiff attested as a witness the transfer of $3\frac{1}{2}$ shares from one Kong Ah Hock to the Appellant (Exhibit D.9).

30

(e) The Plaintiffs are estopped from denying the Appellant's title to the Business of Chop Chua Ban Seng as the first Plaintiff knew about the Registration of Business being in Appellant's name and that he took with him the said Business Registration form and handed same to Messrs. Shearn Delamore & Co. to be attached to the Defence and gave instructions to them to draw up the Defence in Kuala Trengganu Civil Suit No.6 of 1952 (Exhibit D.4).

40

(f) The evidence of Chua Kim Hoon the fifth Plaintiff as to the bringing of crates of bicycles two or three months after liberation should be discounted and his evidence as a whole should not have been accepted.

In the
Court of Appeal
at Kuala Lumpur

No: 31

Memorandum of
Appeal.

12th September,
1958

- continued.

- 10 (g) The evidence of the third Plaintiff as to the building of a family house and the bringing of bicycles from Jerteh and of his acknowledgment in Exhibits D.6 and D.7 and the denial thereof and the sending of the notice by the Appellant and the failure to reply to that notice should have been disregarded.
- (h) Having regard to the fact that all the children of Chua Ah Chee deceased were owners of business in their respective names the only inference that could be drawn in regard to Chop Chua Ban Seng was that it could only belong to the Appellant.
- 20 (i) The evidence of P.W.9, 10 and 13 did not support the Plaintiffs' claim and particularly P.W.10 completely broke down at the close of the cross-examination in that he confessed that he knew nothing after 1st June, 1939 i.e. after the execution of P.14.
- (j) The onus of proving the claim being on the Plaintiffs they have not discharged that onus.
- (k) That if the Plaintiffs' claim was bona fide they would not have waited for 12 years and their explanation as to waiting was not convincing and the Plaintiffs stood by and lost all remedies, if any.
- 30 (l) The Plaintiffs not having pleaded section 41 of the Evidence Ordinance and having raised the point by surprise only after the close of the case before Mr. Justice Abdul Hamid they should not have been permitted to raise the point and in any event the Plaintiffs should have been deprived of costs.

40 The Appellant therefore prays that such part of the judgment as may be considered wrong be set aside or varied and that such other order be made as justice shall deem fit.

Dated this 12th day of September, 1958.

Sgd. Lovelace & Hastings.
Appellant's Solicitor.

To, The Assistant Registrar,
Supreme Court,
Kuala Trengganu.

And to,
Che Maidin bin Mohamed Ibrahim,
Pleader for the Plaintiffs-Respondents,
Kuala Trengganu.

50 The address for service of the Appellant is care of Messrs. Lovelace & Hastings, No. 57 Klyne Street, Kuala Lumpur.

In the
Court of Appeal
at Kuala Lumpur

No. 32

NOTES OF ARGUMENT OF THOMSON, C.J.

No. 32

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

Notes of
Argument.
Thomson, C.J.
16th October,
1958.

IN THE COURT OF APPEAL AT KUALA LUMPUR

F.M. Civil Appeal No.23 of 1958
(K.T. Civil Suit No.29 of 1953)

CHUA CHEE CHOR ... Appellant

v.

1. CHUA KIM YONG (as administrator)
2. KWONG KEH SAN (f)
3. CHUA KIM SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON ... Respondents

10

Cor: Thomson, C.J.
Smith, J.
Ong, J.

NOTES OF ARGUMENT

16th Oct. 1958

For Appellant: Marjoribanks.
For Respondents: Maidin (pleader)

20

Marjoribanks:

J. held he was bound by s.41 of Evidence Ord.
& in particular by s.41 (2) (d).

Under the section the decree must be in rem
and not declare that property belongs to a particu-
lar person.

Sarkar (9th Edition) p.404.

Phipson (8th Edition) p.401

Grant of probate does not go further than
declare the legal status of the grantee.

30

Behary Lall v. Juggo Mohun 4 Cal. 1, 5.

Hormusji v. Bai 12 Bom. 164, 166.

Arunmoyi v. Mohendra 20 Cal. 888, 893.

The Grant does not conclude any question of
property. It only settles finally the status of
the administrator.

Trengganu Probate En. s.42 makes it clear that all that is granted is a representative title.

Biri v. Chandar 19 All. 458.

Chintaman v. Ramchandra 34 Bom. 589.

Marjoribanks

Williams on Executors (13th Ed.) p. 259

Menaham v. Moses (1938 A.I.R. Bom. 394
(1938 I.L.R. Bom. 529

Phipson (8th Ed.) p.426.

In the
Court of Appeal
at Kuala Lumpur

No. 32

Notes of
Argument.
Thomson, C.J.

16th October,
1958

- continued,

10 If I am right on question of law J. must be reversed as to Union Bus Coy. shares (p. 93)

This Court in same position as J. to consider evidence.

20 Defendant was registered under Businesses Ord. 1947. He applied for registration at end of 1947 and received form in 1948. He was registered as sole proprietor of the business. He had been in possession for some time - from 1946 till suit filed - w/o any active steps being taken to remove him.

On that sec. 110 of Evidence Ordinance applies - onus on parties not in possession.

Plaintiffs were up against registration - sec. 110. They must satisfy Court that they were entitled. Also onus is heavy to establish claim against deceased person.

No document was produced supporting claim that deceased was owner of the business.

30 Shortly before war declared went to Singapore on his way to China. He did not leave any P/A behind him.

The sons all had their own shops - they were not branches of the main business.

The Plaintiffs did nothing about it for a number of years.

1st Plaintiff's evidence was lacking in detail and anyhow he is entitled by Ex. D.4 which was drawn on his instructions.

40 3rd Plaintiff said deceased had no shares in any bus coy. except Trengganu Bus Co. (p. 29)

In the
Court of Appeal
at Kuala Lumpur

No: 32

Notes of
Argument.
Thomson, C.J.

16th October,
1958

- continued.

Plaintiff's evidence did not go further than saying father was a towkay and lived on the premises.

The so-called independent witness did not take it any further.

Defendant should have been believed. His evidence was clear and detailed and was corroborated by his witnesses.

As regards the Trengganu Bus Coy. shares the J. misunderstood the evidence.

Deceased must have provided the money with which his son bought the shares but that is far from showing that the shares belonged to the estate.

10

Defendant's own story was straightforward and should have been believed. He has been registered as shareholder for many years w/o being challenged.

As to costs, if the appeal is dismissed Plaintiffs are only entitled to costs of proceedings before Neal, J. Proceedings before Hamid J. were only on question of facts.

Case for Appellant.

20

Maidin

It was common ground that the business was in existence in 1925 - Chop Chua Ban Seng.

But he says he started the business with 2 shops - which is highly improbable.

There was ample evidence to support Judge's findings.

The evidence of Haji Long is reliable p. 32

As regards the question of law I stand on the Judge's statement.

30

Defendant should have done something about the L/A. He was served with the petition for L/A and was present at the hearing.

As to costs.

C.A.V.

Sgd. J.B. Thomson.



NOTES OF ARGUMENT OF SMITH, J.

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE COURT OF APPEAL AT KUALA LUMPUR

FEDERATION OF MALAYA CIVIL APPEAL No.23/58

CHUA CHEE CHOR ... Appellant

v.

- 1. CHUA KIM YONG, Administrator of the Estate of Chua Ah Chee alias Chua Kee Peng
- 2. KWONG KEH SAN (f), Administratrix of the Estate of Chua Kee Law
- 3. CHUA KIM SWEE
- 4. CHUA KIM YONG
- 5. CHUA KIM HOON ... Respondents

Cor: C.J., F.M.
Smith, J.
Ong, J.

NOTES OF ARGUMENT

20 Mr. Marjoribanks for Appellant
Che Maidin bin Mohd. Ibrahim for Respondents.

Law

S. 41 Ev. O.
(1)
(2)(d).

Claim is absolute.

Judgment in rem.

Sarkar 9th Edn.

Phipson 8th Edn. p.401.

30 5 cases.

- 1. Beharj Lall Sandyeel Vs. Juggo Mohun Gossain,
IV. Cal. 1.
- 2. Hormusji Navroji Vs. Bai Dhanbaiji Jamsetji
Dosabhai & ors. Vol. XII Bomb. 164.

In the
Court of Appeal
at Kuala Lumpur

No. 33

Notes of
Argument.
Smith, J.

16th October,
1958.

In the Court of Appeal at Kuala Lumpur

No. 33

Notes of Argument Smith, J.

16th October, 1958

- continued.

- 3. Arunmoyi Dasi Vs. Mohendra Nath Wadadar & Others, Vol.XX. Cal. 888 at 893.
S. 42 Trg. P. & A. Cap. 7 at p.300
- 4. Birj Nath De Vs. Chandar Mohan Baneji, Vol.XIX, A.I.R. at 458.
- 5. Chintaman Vyankatrao Ghadge Vs. Ramchandra Vyankatrao Ghadge, 54 Bom. 589
Messa V. Messa, 1938 A.I.R. Bom 394.
Williams 13 Edn. Vol.1 p.259 para.443.
Phipson, p.426.

10

Fact p.93 Union Bus.

Stand or fall on S.41.

Defendants were registered under Business Ordinance as sole proprietors of Chop in 1948.

In possession from 46 - 53. No active steps. S.110 Evidence Ordinance burden on plaintiff. Deceased went to Singapore ? to China to die. No P/A left.

3 other sons had business. Ban Seng Yong
----- Hee
Sin Ban Seng

20

All bicycle shops.

If business not disclosed as assets

Bare statements by plaintiffs p.91

P.W.1.

p. (no share)

p. c.s. (a) defence p.177 para. 3.

drawn up on 1st plaintiff's instructions. stating he was

30

p. 28 P.W.4.

p. 60 Statement not unnatural.

Credibility p. (X)

P.W.6. 34 uncorroborated p. X.

P.W.7. p. 37 bald statements.

P.W.11. p.43

P.W.12.

P.W.14.p.54 A Statement is not put to defendant.

P. 163 Commencement 1.3.25.

D.W.1. p. 69

Share Trengganu Bus Co.

p. 93

P.W.9. If Chua An Chee gives money no evidence that shares belonged to estate.

Jee Law sold 3 shares.

P.W.10 is postwar.

P.W.13 p. 46

10 (a) not challenged.

Defendant p. 60 p.162 corroborates.

P.W.1. returned it.

Unchallenged registered proprietor.

Point of Law raised by Neal J.

Costs. If decided on now only costs before Neal J.

Facts

p. 91-92

Maidin

Facts

20 1925 chop existed Page 56.

would he have 2 chops

p.62 X 16 y.o.

P.W.1. at p.10 Confirmed p.29.

Every child had something to do with business.

Independent witness p.32.

P.W.12. p. 44.

Law I leave to Neal, J.

Defendants should have applied to delete property from Schedule.

30 He was served with application for L/A.

Share p.47 explanation.

cf. p.169-170

C.A.V.

Sgd. B.G. Smith
Judge.

In the
Court of Appeal
at Kuala Lumpur

No: 33

Notes of
Argument
Smith, J.

16th October,
1958

- continued.

In the
Court of Appeal
at Kuala Lumpur

NOTES OF ARGUMENT OF ONG, J.

No. 34
Notes of
Argument.
Ong, J.
16th October,
1958.

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE COURT OF APPEAL AT KUALA LUMPUR

F.M. Civil Appeal No. 23 of 1958.

CHUA CHEE CHOR ... Appellant

And

1. CHUA KIM YONG, administrator
of the estate of Chua Ah Chee
alias Chua Kee Peng, deceased
2. KWONG KEH SAN (f) the administratrix
of the estate of Chua Kee Law,
deceased
3. CHUA KIM SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON ... Respondents

10

Coram: Thompson, C.J.,
Smith, J.,
Ong, J.

NOTES OF ARGUMENT RECORDED BY ONG, J.

20

Marjoribanks for Appellant.
Che Maidin for Respondents.

Marjoribanks:

Appeal has 2 aspects (1) on law & (2) facts.

Judge held himself bound by S.41 of Evidence
Ordinance - in particular S.41 (2)(d)

Decree not against any one absolutely.

It must declare the property belongs to a
certain person.

Judgment in rem: Sarkar (9th ed.) p.404

30

Phipson (8th Ed.) p.401.

Grant of Probate - effect of:

- (1) Behari Lal v. Juggo Mohan, 4 Cal. 1:
(The grant of Probate does not prejudice
the claims of any person to the property).
- (2) Hormusji v. Bai Dhan Baiji, 12 Bom. 164 &
165.

(3) Arunmoyi v. Mohendra Nath, 20 Cal 888 @ 894
 Section 42 of Probate En. of Trengganu: Cap.7
 of Laws of Trengganu.

"conclusive as to representative title of
 the executor or administrator against all
 debtors etc."

A judgment declares so much and no more.

(4) Birj Nath v. Chandra Mohan, 19 All 458

(5) Chintaman v. Ramchandra, 34 Bom. 589:

10 Probate only conclusive as to appointment
 of executors & validity of contents of will.

(6) Messa v. Messa, (1938) I.L.R. Bom. 529
 1938 A.I.R. (Bom) 394
 (a case in re foreign judgments).

"A judgment in rem is not conclusive if it
 relates to a matter which need not have
 been controverted or which was not material
 or one came collaterally in question - or
 only incidental."

20 (7) Williams on Executors (13th Ed.) 259 Vol.
 I, para.443.

(8) Phipson p. 426

Re M'Kenna 42 Ir. L.T.R. 50.

"not that any property is assets of testa-
 tor."

Facts: Union Bus Co. Shares: p. 93.

If law is as above stated: plaintiffs not
 entitled.

30 C/A in same position as Neal, J. to draw
 own conclusions from the record.

Defendant registered under Registration of
 Businesses Ordinance, 1947.

He applied end of '47 - received form in
 1948.

Re Business:

Registered as sole proprietor of C.B. Seng.
 Common ground that applicant was in posses-
 sion of business since 1946.

s.110 Trengganu Ev. Ord. = same as our 110.

40 Plaintiffs must discharge onus placed on
 them by s.110.

In the
 Court of Appeal
 at Kuala Lumpur

No. 34

Notes of
 Argument.
 Ong, J.

16th October,
 1958

- continued.

In the
Court of Appeal
at Kuala Lumpur

No. 34

Notes of
Argument.
Ong, J.

16th October,
1958

- continued.

Plaintiffs in effect were laying claims to estate of a deceased person - evidence must be convincing.

No document produced to court in any way supporting that deceased was owner.

Deceased was aged - and on his way to China - left no P/A to anybody. In fact another son who went to China in 1938 left P/A.

3 other sons of deceased all had businesses: 10

Ah Poi had B.S. Leong, Kee Land had B.S.Hin and Kim Swee had Sin Ban Seng:

Defendant had no shop of his own.

P.23 - Kim Yong says those shops were branches - yet not in schedule of Deceased's Assets.

P.138 - A P/A in 1938 from Chua Ah Poi to Chua Kim Loh.

Judge in dealing with claim to business of C.B. Seng (p.91) 20

Chua Kin Yong (1st Plaintiff): Evidence on pages 17, 10, 25 substance of evidence: "shop is my fathers."

P.17 re Civil Suit in 1952 - attack witnesses' credit. S/Defence in C.S.6/52 (p.177/8) on instructions given by C. Kim Yong.

S/Claim - (p.171)

Chua Kim Swee (3rd Plaintiff): Evidence on pp.28-29 allegations re request for distribution - never put to defendant in Cross-examination Kim Swee prime mover in settlement of the 1952 case (p.60). . No corroboration as to request from the others. Chua Kim Swee (p. 29 said he signed 3 blank pieces of paper. 30

Chua Kim Hoon (5th Plaintiff) - p.34 - re 10 crates of bicycles - Maidin (p.74) said he was never instructed as to bringing of bicycles in Tongkang. 40

Independent witnesses:

- (1) Ng Boon Lin (p.37)
- (2) Lim Kai Seng (p.43)
- (3) Chua Say Weng (p.44)

Defendant's Case:

- P.54 re C.S. 6/52: terms of settlement was never put to Defendant - no document put in. If brothers knew C.S.6/52 settled in '52 why did they make no claim.
- P.166 - when defendant registered his business on 14.1.48: he registered date of commencement of business as "1.3.1925".

In the
Court of Appeal
at Kuala Lumpur

No. 34

Notes of
Argument.
Ong, J.

16th October,
1958

- continued.

Defendant's independent witness (p.69 - Chua Lew

10 Keow:
Re: Shares - p.93

P.W.9 - Tong Ah Leng - (p.40)

Even if Chua Ah Chee paid for shares in Chua Kee Law's name - no evidence son held for father. Chua Kee Law sold $3\frac{1}{2}$ shares to a partner who resold to Defendant.

P.W.10: came in post-war
produced accounts only - gave no evidence on own account.

20 P.W.13: (p.46 47)
p.158

Defendant's explanation pp.60 to 61.

P.162 8.7.'46 - Kong Ah Hock sold $3\frac{1}{2}$ shares to Defendant. If shares were deceased's property, Kee Law had no right to sell shares to Kong Ah Hock.

Question of Costs: Issue of law - raised before Neal J. only.

Che Maidin:

30 Common ground that in 1925 there was a business known as Chop Chua Ban Seng. Who was owner?
Reads p.56
Did defendant start business in 1925 with 2 chops? Is that credible?

40 P.10 (1st Plaintiff) P.13 - (p.179 bills)
Although all plaintiffs gave different evidence in various respects - they all agreed that business of Chua Ban Seng was that of Chua Ah Chee.

Independent witness: (P.W.5) Haji Wan Long
P.32.

In the Court of Appeal at Kuala Lumpur

No. 34

Notes of Argument. Ong, J.

16th October, 1958

- continued.

As to Question of Law: I have nothing to add to what Neal J. said in his judgment. Defendant bound by Grant of Letters of Administration because he could have but did not appeal.

Appellant was served with Notice of the Petition. P. 9 - agreed main issue - who was owner of C.B. Seng.

Marjoribanks: no reply.

C.A.V.

(Sgd.) H.T. Ong.
Judge.
16.10.'58.

10

No. 35

Judgment of Thomson, C.J.
26th May, 1959.

No. 35

JUDGMENT OF THOMSON, C.J.

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE COURT OF APPEAL AT KUALA LUMPUR

F.M. Civil Appeal No.23 of 1958
(K.T. Civil Suit No.29 of 1953)

CHUA CHEE CHOR ... Appellant

v.

- 1. CHUA KIM YONG (as administrator)
- 2. KWONG KEH SAN (f)
- 3. CHUA KIM SWEE
- 4. CHUA KIM YONG
- 5. CHUA KIM HOON ... Respondents

20

Cor: Thomson, C.J.
Smith, J.
Ong, J.

JUDGMENT OF THOMSON, C.J.

This appeal arises out of an action brought by the administrator and certain beneficiaries of the Estate of one Chua Ah Chee, deceased, against one of the sons of the deceased.

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In the
Court of Appeal
at Kuala Lumpur

No. 35

Judgment of
Thomson, C.J.

26th May, 1959

- continued.

10 The deceased died intestate at Singapore on 15th February, 1942, leaving five sons one of whom has since died. It was the case for the plaintiffs that prior to his death the deceased had for many years been carrying on a bicycle selling business in Kuala Trengganu under the name of Chop Chua Ban Seng with the aid of his five sons. After his death the business was carried on under the management of one of his sons, Chua Chee Chor, who was the defend-
ant in the present proceedings with the assistance from time to time from the other sons. The evidence for the plaintiffs is not as clear as it might be but on it there is little room for doubt that the business was so carried on in accordance with the usual Chinese practice as to family businesses.

Be that as it may for some years the sons seemed to have carried on the business in perfect harmony and no steps of any sort were taken to deal with the deceased's Estate.

20 Eventually, however, differences arose and on 28th February, 1953, Chua Kim Yong who is one of the present plaintiffs applied for Letters of Administration. In his petition he set out the assets of the Estate as follows:-

Stock in trade of the business	\$45,000
Certain shares in the Union Bus Co.	5,100
Certain shares in the Trengganu Bus Co.	<u>7,000</u>
	<u>\$57,100</u>

30 When the petition came on for hearing Chua Chee Chor appeared. He said he had no objection to the appointment of Chua Kim Yong as administrator, but claimed that the assets set out in the Schedule of the petition were not assets of the Estate but his personal property.

In the event Letters of Administration were granted to Chua Kim Yong and he and his brothers commenced the present proceedings against Chua Chee Chor.

40 In these proceedings they claimed a declaration that the business known as Chop Chua Ban Seng and the shares in the two Bus Companies were the property of the deceased's Estate. They also claimed that certain land owned by Chua Chee Chor was the

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Thomson, C.J.
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- continued.

property of the deceased's Estate on the ground that it had been purchased out of the profits of the business. They also claimed certain ancillary relief in the way of accounts.

The case had an unfortunate history. It came on for hearing in October, 1954, before a Judge who heard all the evidence but who reserved judgment and was then obliged on medical grounds to retire before he could give judgment. In these unfortunate circumstances the normal course would have been for the case to be retired de novo. This, however, would have involved considerable expense and in the event the parties asked that Neal, J., should decide the case on the evidence as recorded by his predecessor.

10

For myself I have grave doubts as to the regularity of this course, particularly as there was a great deal of conflict of testimony in the case. It is only fair to say that Neal, J., had considerable doubts himself. On the other hand the case can be distinguished from the English cases of Bolton v. Bolton (1), Coleshill v. Manchester Corporation (2) and Re British Reinforced Concrete Engineering Co. Ltd.'s application. (3) In all these cases part of the evidence was heard by the Magistrate or Judge who commenced the case and part was heard by the Magistrate or Judge who concluded it and gave judgment. In the present case, however, all the evidence was heard by Neal, J.'s predecessor and Neal, J., did not see or hear any of the witnesses. The parties themselves agreed to the case being decided on the evidence as recorded by Neal, J.'s predecessor. Before us neither party has taken the point of irregularity and in the circumstances for myself I am not disposed to take the point although I would express my very strong view that the precedent is not one to be followed.

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30

In the event Neal, J., held that there was not a scrap of evidence to support the claim that certain land owned by the defendant was the property of the deceased's Estate. There is no complaint that this decision was not correct and regarding it I would only say that in my opinion it was clearly right.

40

As regards the claim that the business of Chop Chua Ban Seng and the shares in the two Bus Companies were the property of the Estate, Neal, J., found in favour of the plaintiffs and against that decision the defendant has now appealed.

(1) (1949) 2 A.E.R. 908
(2) (1928) 1 K.B. 776
(3) 45 T.L.R. 186.

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- continued.

10 I do not think it is unfair to say that in arriving at his conclusions Neal, J., based himself very largely on the view he took of the effect of the grant of administration to the first plaintiff read in the light of section 41 of the Evidence Ordinance. The petition for administration had exhibited to it a list of what was alleged by the petitioner to be the property of the deceased at the time of his death; the defendant was joined as a party to the petition; and therefore the grant of administration on the basis of the petition was con-
15 clusive against him as to the ownership of the property.

This view is about to be discussed at length by Smith, J., whose judgment I have had the advantage of reading. With respect I agree with Smith, J's conclusion that it is wrong and with his reason-
20 ing leading to that conclusion.

20 In England a grant of Letters of Administration is only conclusive as to the right of the grantee to represent the estate of the deceased and is not conclusive of any collateral matter (see Williams on Executors, 13th edition, p.259). The reasons for that may well be connected with the historical dis-
25 tinction in jurisdiction between the Court of Probate and the Court of Chancery. In the State of Trengganu, however, the position is clearly the same by reason of the provisions of the local statute. Section 42 of the Trengganu Probate and Administra-
30 tion Enactment provides that Letters of Administra- tion shall be conclusive as to the representative title of the grantee. From that alone it does not necessarily follow that they may not be conclusive as to other matters for logically the converse of a universal affirmative proposition is not a universal negative proposition. Section 42, however, has to be read in the light of section 23 which provides that no petition for Letters of Administration can be opposed except on the ground that the petitioner
35 is not the proper person to obtain administration and it seems impossible to argue that any provision of a general nature in the Evidence Ordinance can operate to extend the scope of section 42 to make a grant conclusive of a question which could not have been raised on the petition which led to it. In the present case it was not open to the defendant to do anything in relation to the petition that would in any way raise the issue of what in fact constituted the assets of the Estate. That question could only
40 be litigated in subsequent proceedings to which the

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Court of Appeal
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Thomson, C.J.
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- continued.

obtaining of administration was a necessary preliminary and that is just what has been done in the present proceedings.

Having arrived at that result it becomes necessary to consider the evidence without regard to the provisions of section 41 of the Evidence Ordinance. Here we are in exactly the same position to evaluate that evidence as was the trial Judge for he did not enjoy the advantage of having seen and heard the witnesses and had to decide the matter on the written evidence.

10

To my mind this presents little difficulty.

In the first place I agree with the trial Judge that there is not a scrap of evidence to show that the shares in the Union Bus Company have any connection with the estate of the deceased.

In the second place on the written evidence it is to my mind abundantly clear that before the war the business of Chop Chua Ban Seng was the business of the deceased and that the assets of that business were the property of the deceased. It may be that the deceased went on pulling a rickshaw long after he started business but I find it wholly incredible that all his life he had been unable to set up any business of his own while on the other hand one of his sons, and this was the defendant's case, had been able to set up on his own in business at the age of 16. I think it is clear beyond doubt that the defendant took possession of the assets of the business and made use of them throughout the war and for some years afterwards without obtaining administration to the Estate. There is no question of fraud or imposition of any sort. Clearly somebody had to take charge during the war and it is very doubtful if it was possible to obtain administration during the war. After the war the other brothers were consenting parties and it is unfortunate that they have been unable to settle matters amicably. Nevertheless the defendant did take possession of the assets; he has enjoyed the benefit of them for his own purpose; and he ought to account for what he has had to the Estate.

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In the third place I think it is clear on the evidence that the shares in the Trengganu Bus Company Limited owned by the first defendant came into existence in substitution for the shares in the original unincorporated Trengganu Bus Company

owned by the deceased and for these also in my opinion the defendant is bound to account.

In the circumstances I would vary the order made by the trial Judge to the following effect:-

10 (1) There should be an inquiry as to the composition and value of the assets of the business of Chop Chua Ban Seng at the date of death of the deceased, that is, at 15th February, 1942, and an order that the defendant pay the amount arrived at on such inquiry to the administrator with interest at the rate of 6% per annum.

(2) There should be an order that the appellant transfer to the administrator the shares held by him in the Trengganu Bus Company Limited and the dividends received by him from these shares since the formation of the Company, the amount of such dividends to be ascertained by inquiry by the Assistant Registrar.

20 As regards costs I think the costs of the original action should be paid by the present appellant. The appeal, however, has been partially successful and partially unsuccessful and I would make no order as to the appeal costs, except that the deposit in Court, if any, be paid out to the appellant.

Kuala Lumpur,
May 26 1959.

Sgd. J.B. Thomson.
CHIEF JUSTICE,
FEDERATION OF MALAYA.

In the
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at Kuala Lumpur

No. 35

Judgment of
Thomson, C.J.
26th May, 1959
- continued.

In the
Court of Appeal
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No. 36

JUDGMENT OF SMITH, J.

No: 36

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

Judgment of
Smith, J.

IN THE COURT OF APPEAL AT KUALA LUMPUR

30th July, 1959.

F.M. Civil Appeal No. 23 of 1958
(K. Trengganu High Court Civil Suit No.29/53)

CHUA CHEE CHOR

Defendant
Appellant

vs.

- | | |
|--|---|
| 1. CHUA KIM YONG administrator of the
estate of Chua Ah Chee alias Chua
Kee Peng deceased. | 10 |
| 2. KWONG KEH SAN (f) the administratrix
of the estate of Chua Kee Law
deceased | |
| 3. CHUA KIM SWEE | |
| 4. CHUA KIM YONG | |
| 5. CHUA KIM HOON | |
| | <u>Plaintiffs</u>
<u>Respondents</u> |

Cor. Thomson, C.J.
Smith, J.
Ong, J.

20

JUDGMENT OF SMITH, J.

This is an appeal by the defendant against so much of the judgment as is in favour of the plaintiffs.

The plaintiffs prayed for declarations that three particular assets were at the date of his death the property of one Chua Ah Chee.

Letters of Administration in the estate of the deceased were granted to the first plaintiff. The grant of Letters of Administration is in the form prescribed by the rules under the Probate and Administration Enactment of the State of Trengganu, Cap. 7. The operative part of the grant is as follows :-

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" And be it further known that on the 27th day of June, 1953, administration of all the movable and immovable property in the Federation

"of Malaya which by law devolves to and vests in the personal representative of the said intestate was granted by this Court to Chua Kim Yong of 22, Jalan Banggol, Kuala Trengganu, the lawful son and one of the next-of-kin of the said intestate.

10 And be it further known that on the date hereunder written these Letters of Administration were issued to the said administrator he having given the security required by this Court for the due administration of the said property. a schedule whereof is hereunto annexed."

The schedule to the grant lists the assets referred to in the Statement of Claim.

20 The learned trial Judge has held that the grant of Letters of Administration is conclusive evidence of ownership of the assets set out in the schedule forming part of the grant, and that the assets in the schedule are already adjudged and must be deemed the property of the deceased at the date of his death until the schedule has been amended or the Letters of Administration revoked.

30 I think there can be no doubt that a grant of Letters of Administration is a final order. The position in English law with regard to final judgments is clear. A judgment is final for its own proper purpose and object and no further. This is a statement of the law by Lord Ellenborough in the case of Outram v. Morewood in which he developed his point in the following words, in 102 E.R. page 630 at page 634:-

40 "A judgment, therefore, in each species of action is final only for its own proper purpose and object, and no further. The judgment in trespass affirms a right of possession to be, as between the plaintiff and defendant, in the plaintiff at the time of the trespass committed. In the real action, it affirms a right to the freehold of the land to be in the defendant at the time of the writ brought. Each species of judgment, from one in an action of trespass to one upon a writ of right, is equally conclusive upon its own subject matter by way of bar to future litigation for the thing thereby decided."

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- continued.

It is therefore necessary first to decide what question the Court was called upon to determine when granting Letters of Administration to the first plaintiff. The Probate and Administration Enactment of Trengganu exists, according to its long title:-

" To provide for the grant of Probates of Wills and Letters of Administration to the estates of deceased persons and to make provisions for the distribution of intestate estates."

10

The object of granting Letters of Administration is clearly to enable the intestate's estate to be distributed. The effect of Letters of Administration is defined in sections 40 to 43. Section 40 makes the administrator the legal representative of the deceased person for all purposes and vests in him all the property of the deceased person. The grant enables the administrator to deal with what was the deceased's property.

It has been argued that by virtue of section 41(2)(d) of the Evidence Ordinance, 1950, the grant until revoked is conclusive proof that the property in the schedule was the property of the deceased at the date of his death.

20

The parts of section 41 with which we are concerned read as follows :-

"41. (1) A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial, admiralty or bankruptcy jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character or the title of any such person to any such thing is relevant.

30

(2) Such judgment, order or decree is conclusive proof -

.....

40

(d) that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declared that it had been or should be his property."

In relation to a grant of Letters of Administration the "any person" to which paragraph (d) refers is the administrator and the grant is conclusive that he is entitled to the property properly passing to an administrator from the date of the grant.

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10 This particular section has been considered many times by the Courts of India and particularly in the case of Arunmoyi v. Mohendra, I.L.R. (Calcutta) Vol. XX page 888. In that case the Court held, at page 894, "that in a proceeding upon an application for probate of a will, the only question which the Court is called upon to determine is whether the will is true or not, and that it is not the province of the Court to determine any question of title with reference to the property covered by the will."

20 In the case of Behary v. Juggo, 2 Indian Decisions (Calcutta) page 1 at page 3, the Court said "..... upon an application for probate of a will, as long as it is made bona fide, it is not the province of the Court to go into questions of title with reference to the property of which the will purports to dispose."

30 Woodroffe's Law of Evidence, 9th Edition, in discussing the above cases in relation to section 41 of the Indian Evidence Act, 1872, at page 421 says:- "A grant of letters of administration with the will annexed, does not make any question as to the title to property covered by, or as to the construction of the will, res judicata in a subsequent suit in which such title or construction comes in issue".

In the same manner it appears to me that when the Court grants Letters of Administration it does not go into questions of title as to the assets disclosed in the affidavit of the petitioner any more than it goes into the right of a testator to the property of which he purports to dispose in his will.

40 The principal object of the schedule to the grant of Letters of Administration appears to be for the purpose of ensuring that correct security is given. It does not prove the deceased's title to the property scheduled.

In this particular case the administrator has come to the Court seeking a declaratory order that certain property which he has included in the list

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of the deceased's assets was in fact the deceased's property. To that extent, therefore, the administrator is seeking the guidance of the Court in administering the assets of the deceased, a right which he has under section 69 of the Probate and Administration Enactment of Trengganu.

I consider therefore that as between the plaintiffs and the defendant it has never been res judicata that the property in the schedule to the grant was the deceased's property at his death. 10

I have had the benefit of reading the judgment of the learned Chief Justice and agree with his view of the law, findings of fact and consequential orders, including the proposed order for costs.

I would add that if it were not necessary in this case to decide whether the business belonged to the father or to his third son, the defendant, I would on the facts myself have held that the probabilities are that the business was started by the defendant with a very great deal of help from his father. During the lifetime of the father the father was in effect the principal partner and was generally regarded in the district as the owner of the business. I think it probable that he did not regard himself as the sole owner because when he bought the shares in the bus company he bought them in the name of the Chop and not in his own name. I think the probabilities are that he intended when he died that the defendant should have the business. This would be very natural since the probabilities are that the businesses of the other brothers had been started with capital provided by the father from the first business. Since, however, it is necessary to decide as a matter of probability whether the business belonged to the father or the defendant exclusively, I agree with the learned Chief Justice that the probabilities are in favour of the father and I therefore respectfully agree with him rather than with Ong, J. whose judgment I have had the benefit of reading. 20 30 40

(Sgd.) B.G. SMITH.

JUDGE,

SUPREME COURT,
FEDERATION OF MALAYA.

Kuala Lumpur,
30th July, 1959.

No. 37

JUDGMENT OF ONG, J.IN THE SUPREME COURT OF THE FEDERATION OF MALAYAIN THE COURT OF APPEAL AT KUALA LUMPURF.M. Civil Appeal No.23 of 1958CHUA CHEE CHOR ... Appellant

And

1. CHUA KIM YONG, administrator of the estate of Chua Ah Chee alias Chua Kee Peng deceased
2. KWONG KEE SAN (f) the administratrix of the estate of Chua Kee Law deceased
3. CHUA KIM SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON Respondents

Coram: Thomson, C.J.,
Smith, J.,
Ong, J.

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Court of Appeal
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No: 37

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Ong, J.

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1959.

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JUDGMENT OF ONG, J.

This is an appeal from the judgment of the High Court at Kuala Trengganu in an action between the sons of one Chua Ah Chee deceased, who died intestate in Singapore on the day of its surrender to the Japanese Army in 1942. The issue between the parties was whether certain assets in the possession of the defendant formed part of the estate of the deceased or were the defendant's personal property.

30

The deceased first came out to Malaya from China in 1922, and was followed by his eldest son, Ah Poi, in 1923. They settled down in Kuala Trengganu and earned their living as rickshaw pullers.

Next came the third son, Chee Chor (who is the defendant) in 1924, to find employment in a bicycle shop Chop Sin Guan Hin. In 1925, according to defendant, he set out on his own to open a bicycle-repairing shop in a portion of a shophouse under the

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style of Chop Ban Seng, the other half of the premises being occupied by seven rickshaw pullers including his father and brother. In the following year he moved to other premises, No.232 Jalan Kedai Binjai, which he rented from one Tua Tan Hong at \$10 per month. His father and Ah Poi continued to pull rickshaws, but came to live with him. In 1926 Ah Poi left for China owing to bad health, and in that same year, the second and fourth sons, Kee Law and Kim Swee, came out with their mother. Kee Law also became a rickshaw puller: Kim Swee, of course, was too young to do the same. In 1929 the deceased himself returned to China, while Ah Poi came back to Malaya to resume his rickshaw pulling. In 1930 the deceased brought back his fifth son Kim Yong, who by his own account was then 8 years old. In that year Ah Poi went to Java to work for some time there as a lorry attendant. Subsequently the sixth son, Kim Hoon was born in Kuala Trengganu. 10

About 1932 Kee Law opened his own bicycle shop, Ban Seng Hin, at No.13 Jalan Padang. 20

About 1934 Ah Poi also established his own bicycle shop, Ban Seng Leong, at No.13 Jalan Kampong Daik. He fell ill and returned to China in 1938, after having executed a Power of Attorney dated September 3, 1938, appointing his brother Kee Law to manage his said business. Ah Poi died in China in 1939.

In 1940 Kim Swee opened his own bicycle shop, Sin Ban Seng, in Jerteh. 30

Late in 1941, on the eve of the Japanese invasion of Malaya, deceased left for China. He was accompanied by his second son, Kee Law, the latter's wife, and the sixth son, Kim Hoon, then 14 years old. The deceased was killed in Singapore by the Japanese on February 15, 1942. The surviving members of the family remained in Singapore two or three months longer, and Kim Hoon returned to Kuala Trengganu in a Malay sailing-boat. Kee Law and his wife did not return till later, and Kee Law died in 1946. 40

At the date of his death the deceased thus left five sons surviving him. For about ten years they lived in peace and amity, and during all that time no steps at all were taken by any of the deceased's beneficiaries to deal in a proper manner with such estate, if any, as were left by him. To all intents and purposes the deceased, by common

consent of all his next-of-kin, was possessed of no assets at his death.

On March 15, 1952, Chua Cheng Teck, son of Ah Poi and administrator of his estate, commenced an action against the defendant claiming that his father was until his death a partner in the business of Chop Ban Seng of which the defendant at all material times was and continued to be manager. Kim Yong, who then enjoyed the defendant's confidence, conveyed his instructions to Messrs. Shearn, Delamore & Co., in Kuala Lumpur, who prepared the defence claiming that the defendant always had been sole proprietor of the said business of Chua Ban Seng. The action was settled out of Court.

In 1955 Kim Yong, who with the other brothers had fallen out with defendant, applied for Letters of Administration to the estate of their father. In the schedule of property attached to the Petition were set out certain assets as those of the deceased: (1) stock in trade in Chop Chua Ban Seng, (2) 51 shares standing in the name of Chop Chua Ban Seng in Union Bus Co., Kuala Trengganu, and (3) 14 shares in the name of Chop Chua Ban Seng in Trengganu Bus Co.

At the hearing of the Petition the defendant objected, stating that he claimed these assets, but otherwise had no objection to the Grant. The Court thereupon made an order granting administration of the deceased's estate to Kim Yong, and the Grant of Letters of Administration was duly issued to him on September 21, 1953.

Kim Yong and the other plaintiffs then commenced their action against the defendant claiming that the estate of the deceased comprised the three classes of assets above stated and also certain lands alleged to have been purchased by the defendant out of the profits of the business, and they prayed for accounts and other relief.

The unfortunate history of this case has been dealt with in the judgment of the learned Chief Justice and I respectfully associate myself with all that he has said in this connection,

Except as to the lands alleged to have bought out of the profits of the business, Neal J. gave judgment in favour of the plaintiffs, and against such decision the defendant has appealed.

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- continued.

This appeal resolves itself into two parts, one, upon the learned Judge's interpretation of Law, and the other as to his conclusions of fact.

Upon the question of law I have had the advantage of reading the judgments of the learned Chief Justice and of Smith J., and with their views I would with respect concur. There is nothing that I can usefully add.

As to the finding of fact of Neal J., I feel bound to say that I am unable to express my agreement. I differ from him with less hesitation for the reason which has been stated by the learned Chief Justice, and out of the voluminous written testimony taken down by Abdul Hamid J. I have sifted and extracted the essential features of the Chua family history which I have already set out at some length. In my view the only proper approach to the problem is to make a close study of the history of the family in the years between 1922 and December 1941. The evidence of witnesses as to repute of ownership of property is at best a poor guide.

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In the result I have come to the conclusion that every asset of which the defendant stands possessed is property of which he is the sole beneficial owner. I shall now proceed to state the reasons why I do so.

It is clear that in 1922 the deceased started life in Kuala Trengganu in the humble occupation of a rickshaw puller, and that in 1923 his eldest son, Ah Poi, followed him there to pull another rickshaw. The defendant, who next came out in 1924, was then 15 years old and therefore he started to learn a trade, repairing bicycles, as an employee of a bicycle shop, Chop Sin Guan Hing, where he worked for a year. With his savings of \$60 to \$70 as capital in 1925 he started a small bicycle repairing business in Jalan Kedai Binjai, two doors away from his present premises. He had neither bicycles nor spare parts to sell, but earned \$1 to \$1.50 a day. In 1926 he moved to his present premises, in which year his second brother Kee Law came out and became the third rickshaw puller in the family. His family quite naturally came to live with him. He remembered that name of his landlord and the rent he paid. Kim Yong came out from China at the age of eight in 1930, and he claims that when he arrived in Kuala Trengganu, his father

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10 already was owner of and running Chop Ban Seng dealing in bicycles. I do not think that a boy who was only two years old when his father left China in 1922 is really able to say which of his brothers next came out, and when, and in the absence of any reliable evidence to the contrary, the defendant's evidence must be preferred. If, as the latter has said, the deceased returned to China in 1929 for health reasons and fetched Kim Yong back to Malaya in 1940, it is clearly untrue that on Kim Yong's arrival he found his father already dealing in bicycles.

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Ong, J.

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20 There is corroboration of the defendant's evidence given by a contemporary of his, Chua Lew Keow, who knew the defendant and his father in China, whose home was near to theirs, and who came out in 1925 and knew that defendant's father remained a rickshaw puller for some years after defendant opened his shop. I do not think that if deceased was already the owner of a business he would continue to pull a rickshaw.

I now turn to the plaintiff's witnesses who were witnesses as to the repute of ownership of Chop Chua Ban Seng. These were P.W.7, 11 & 12 referred to by Neal J. I propose to refer also to P.W.5, the Government pensioner, Dato Sangsura Pahlawan.

30 In my opinion the Dato's evidence was entirely ambiguous. During 1925 and until he left the district in the ninth month of 1926 he was carried in the rickshaw pulled by deceased or by his eldest son, Ah Poi. But, in 1925 the defendant had already started his own business, and in 1926 he had moved to his present premises in Jalan Kedai Binjai, and had brought his father and brother to live with him. The Dato's loan of \$100 to the deceased was allegedly for him to purchase a bicycle for hire, but there is no evidence that such intention was carried out. Even if this were accepted in the best possible light, it could still mean nothing more than that the father was, in his own way, and not unnaturally helping his son towards standing on his own feet in the son's business. If the Dato in later years met his former rickshaw puller had bought motor-car tyres in the shop where the latter was living, it is evidence he would be attended to by his friend, whether his friend or his friend's son was proprietor of the shop.

40

Ng Boon Lin (P.W.7) came to dwell in Kuala

In the
Court of Appeal
at Kuala Lumpur

No. 37

Judgment of
Ong, J.

3rd August,
1959

- continued.

Trengganu in 1938 and he said "I have known Chua Ah Chee (deceased) since I came in Kuala Trengganu in 1938. Chua Ah Chee had a bicycle shop, Chop Chua Ban Seng." He next proceeded to relate about the deceased taking shares in the Trengganu Bus Co. If the deceased brought cash to pay for those shares, he could have got the money from defendant, his son, and the deceased might very likely have intended to use such moneys not for his own benefit but to assist a son, less fortunately placed, by obtaining for the latter an office of profit in the transport company - the post of manager. It is significant that the shares were taken in the name of Chop Chua Ban Seng, and not of deceased himself. Unless, Chop Chua Ban Seng must be taken to mean the deceased - and that would be begging the question - there is no necessary inference that the true beneficial owner of those shares was the deceased.

10

The evidence of P.W.11, Lim Kai Cheng, does not stand up to close scrutiny. He claims to have known the deceased for 30 years, when in fact the latter lived in Kuala Trengganu only from 1922 till he left for China at the end of 1941, only 20 years in all. This witness admitted he had never been to deceased's shop, nor did he know when the deceased gave up rickshaw pulling, but he asserted that deceased had his business at Jalan Kedai Binjai when he was still pulling a rickshaw, which is manifestly absurd.

20

Chua Say Tiong, P.W.12, only came to Kuala Trengganu in 1938, more than 12 years after the establishment of Chop Chua Ban Seng. By then Kee Law had opened his own shop, Ban Seng Hin, and Ah Poi had also his own shop Ban Seng Leong. Yet this witness, who did not know that those two shops were owned by the sons stated that the deceased was the proprietor - though not sole proprietor - of Chop Ban Seng, Ban Seng Hin and Ban Seng Leong. He also stated Ban Seng, Ban Seng Hin and Ban Seng Leong had three shop-houses; Kee Law had those three shop-houses - which is entirely untrue.

30

40

As regards P.W.14, Chua Chong Teik, who sued the defendant in 1952, it is in my view impossible that only Chua Kim Yong, and none of the other plaintiffs, knew of the litigation, and of the defendant's claim that he was sole proprietor. I do not think the amicable settlement by which the case was closed need necessarily be interpreted as an admission by the defendant. When the defendant

50

gave away, inter alia, 80 shares in the Union Transport Co., then, if there is any truth in the claim of these plaintiffs, the defendant was giving away assets of deceased's estate, in which the plaintiffs were equally interested, without any objection on their part.

10 Again it seems to me inexplicable that when the deceased left on the eve of the Japanese invasion, intending to go to China for an indefinite period, he left no power of attorney to anyone to manage Chop Ban Seng, if it was his business. I would observe that before Chua Kee Law left in 1938 for China, he had taken the precaution of appointing an attorney to look after his own business.

20 If Chop Chua Ban Seng was the property of the deceased, then it seems to me incredible that the defendant, who was the first in the family to set up a bicycle business, was content to devote his whole time and attention through the years to a business in which he had no interest, and for no personal profit to himself, while he saw his brothers having their own shops in 1932, 1934 and 1940.

I would observe further, that if the business did in fact form part of the deceased's estate, there is not a shred of evidence that any of the plaintiffs, as beneficiaries, made any drawings on the profits at any time, as one would naturally expect.

30 In respect of the shares in the Union Bus Company, I agree with the learned Chief Justice and Neal J. that there is no evidence whatsoever to support the plaintiffs' claim thereto and that part of their claim must fail.

40 As to the shares in the Trengganu Bus Company Limited, the evidence is clear that in the books of the transport company before its incorporation the owner of the shares was the Chop, Chua Ban Seng, and not the deceased himself, that Kee Law was the nominal partner under the articles of partnership, that when the company was incorporated in 1946 the name of defendant was substituted for that of Chop Chua Ban Seng, and that all the plaintiffs with full knowledge of the above facts were content to suffer an apparently overt act for expropriation which was either in fraud of the estate of Kee Law or of the estate of the deceased for seven years. In my view

In the
Court of Appeal
at Kuala Lumpur

—
No. 37

Judgment of
Ong, J.

3rd August,
1959

- continued.

In the
Court of Appeal
at Kuala Lumpur

No. 37

Judgment of
Ong, J.

3rd August,
1959

- continued.

their conduct was consistent only with their acknowledgment of the defendant as the true beneficial owner: it is incredible that businessmen such as the male plaintiffs could otherwise have conducted themselves as they did.

Accordingly, both as to the business of Chop Ban Seng (or Chua Ban Seng) and also the shares in the Trengganu Bus Company Limited, I would hold that the plaintiffs have failed to discharge the onus of proof which rests on them, under section 110 of the Evidence Ordinance, of proving that the defendant is not in fact the owner of these two assets of which he has been in undisputed possession for at least seven years before the commencement of action, if not since a much earlier date.

I would allow the appeal, with costs both of the trial and of this appeal to the appellant.

(Sgd.) H.T. Ong.

JUDGE,
SUPREME COURT,
FEDERATION OF MALAYA.

Kuala Lumpur,
3 August 1959.

10

20

No. 38

Formal Order.

22nd August,
1959.

No. 38

FORMAL ORDER

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE COURT OF APPEAL AT KUALA LUMPUR

Federation of Malaya Civil Appeal No. 23 of 1958

BETWEEN:

CHUA CHEE CHOR ... Appellant

- and -

1. CHUA KIM YONG administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased
2. KWONG KEH SAM (f) the administratrix of the estate of Chua Kee Iaw, deceased.
3. CHUA KIM SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON ... Respondents

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(In the matter of Kuala Trengganu High Court
Civil Suit No.29 of 1953

In the
Court of Appeal
at Kuala Lumpur

BETWEEN:

No. 38

Formal Order.

22nd August,
1959

- continued.

- 10 1. CHUA KIM YONG administrator of the
estate of Chua Ah Chee alias Chua
Kee Peng, deceased
2. KWONG KEH SAN (f) the administratrix
of the estate of Chua Kee Law,
deceased
3. CHUA KIN SWEE
4. CHUA KIM YONG
5. CHUA KIM HOON. ... Plaintiffs

- and -

CHUA CHEE CHOR ... Defendant)

Coram: The Hon'ble Dato Sir James Thomson, P.M.N.,
P.J.K., Chief Justice, Federation of Malaya;

The Hon'ble Mr. Justice Smith;

And

The Hon'ble Mr. Justice Ong,

20 IN OPEN COURT

AT KOTA BHARU

This 22nd day of August, 1959

O R D E R

30 This appeal from the decision of the Hon'ble
Mr. Justice Neal given at Kuala Trengganu on the
3rd day of June, 1958 coming on for hearing on the
16th day of October, 1958 in the presence of Mr.N.A.
Marjoribanks of Counsel for the Appellant and Che
Maidin bin Mohamed Ibrahim, Pleader for the Respond-
ents abovenamed and upon hearing Mr. N.A.Marjoribanks
and Che Maidin bin Mohamed Ibrahim IT WAS ORDERED
that this appeal do stand adjourned for judgment and
the same coming on for judgment on the 22nd day of
August, 1959 at Kota Bharu in the presence of the
Appellant and Che Maidin bin Mohamed Ibrahim, Plead-
er for the Respondents IT IS ORDERED that the de-
claration that the business of Chop Chua Ban Seng is
part of the Estate of Chua Ah Chee alias Chua Kee
Peng, deceased be and is hereby upheld AND IT IS
40 ORDERED that there shall be an inquiry as to the

In the
Court of Appeal
at Kuala Lumpur

No. 38

Formal Order.

22nd August,
1959

- continued.

composition and value of the assets of the business of Chop Chua Ban Seng at the date of the death of the deceased Chua Ah Chee alias Chua Kee Peng, that is, at the 15th day of February, 1942 AND IT IS FURTHER ORDERED that the Defendant do pay to the administrator of the estate of the deceased Chua Ah Chee alias Chua Kee Peng the amount arrived at on such inquiry with interest at the rate of 6% per annum AND IT IS FURTHER ORDERED that the Appellant do transfer to the Administrator of the Estate of Chua Ah Chee alias Chua Kee Peng, deceased all the shares held by the Appellant in the Trengganu Bus Company Ltd. and the dividends received by the Appellant from the aforementioned shares since the formation of the said Company, and that the amount of such dividends be ascertained by inquiry by the Assistant Registrar AND IT IS ALSO ORDERED that the costs in the Court below be paid by the Appellant to the Respondents AND THIS COURT DOETH MAKE NO ORDER as to costs in this appeal except that IT IS LASTLY ORDERED that the sum of \$500/- (Dollars Five hundred only) lodged in Court as security for the costs of this Appeal be paid out to the Appellant.

10

20

Given under my hand and the seal of the Court
this 22nd day of August, 1959.

Sgd. Shiv Charan Singh.
Assistant Registrar,

(SEAL)

Court of Appeal,
Federation of Malaya.

30

ORDER GRANTING CONDITIONAL LEAVE TO APPEAL TO THE
YANG DI-PERTUAN AGONG

In the
Court of Appeal
at Kuala Lumpur

No. 39

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE COURT OF APPEAL AT KUALA LUMPUR

F.M. Civil Appeal No. 23 of 1958

Order granting
conditional
leave to Appeal
to the Yang di-
Pertuan Agong.

18th April,
1960.

BETWEEN

CHUA CHEE CHOR ... Appellant

- and -

10

- 1. CHUA KIM YONG administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased,
- 2. KWONG KEH SAN (f) the administratrix of the estate of Chua Kee Law, deceased
- 3. CHUA KIM SWEE,
- 4. CHUA KIM YONG,
- 5. CHUA KIM HOON. ... Respondents

(In the matter of Kuala Trengganu High Court Civil Suit No. 29 of 1953

20

BETWEEN

- 1. CHUA KIM YONG administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased
- 2. KWONG KEH SAN (f) the administratrix of the estate of Chua Kee Law, deceased
- 3. CHUA KIM SWEE
- 4. CHUA KIM YONG
- 5. CHUA KIM HOON ... Plaintiffs

30

- and -

CHUA CHEE CHOR ... Defendant)

Coram - The Hon'ble Dato Sir James Thomson, P.M.N.,
P.J.K., Chief Justice, Federation of Malaya.

The Hon'ble Mr. Justice Hill,
Judge of Appeal

and

The Hon'ble Mr. Justice Good,
Judge of Appeal.

IN OPEN COURT

40

This 18th day of April, 1960

O R D E R

In the
Court of Appeal
at Kuala Lumpur

No. 39

Order granting
conditional
leave to Appeal
to the Yang di-
Pertuan Agong.

18th April,
1960

- continued.

UPON MOTION made unto the Court this day by Mr. N.A. Marjoribanks of Counsel for the abovenamed Appellant in the absence of Che Maidin bin Mohd. Ibrahim, Pleader for the abovenamed Respondents AND UPON HEARING Mr. N.A. Marjoribanks of Counsel for the Appellant AND UPON READING the Notice of Motion dated the 2nd day of October, 1959 and the affidavit of Chua Chee Chor sworn on the 2nd day of October, 1959, and filed herein IT IS ORDERED that condi- 10
tional leave be and is hereby granted to the Appel-
lant to appeal to His Majesty the Yang di-Pertuan
Agong from the Judgment of the Court of Appeal dated
22nd August, 1959, upon the following conditions:-

- (1) That the Appellant do within three months from date hereof enter into good and sufficient security to the satisfaction of the Registrar of the Supreme Court in the sum of \$5,000.00 (Dollars Five thousand only) for the due prosecution of this Appeal and the payment of all such costs as may become payable to the Respondents in the event of the Appellant not obtaining an order granting him final leave to Appeal or of the Appeal being dismissed for non-prosecution or of His Majesty the Yang di-Pertuan Agong ordering the Appellant to pay the Respondents' costs of the Appeal, as the case may be; and 20
- (2) That the Appellant shall within the said period of three months take the necessary steps for the purpose of procuring the preparation of the Record and the despatch thereof to England 30

Given under my hand and the seal of the Court
this 18th day of April, 1960.

Sgd. Shiv Charan Singh.
Assistant Registrar,
Court of Appeal,
Federation of Malaya.

(SEAL)

No. 40

ORDER GRANTING FINAL LEAVE TO APPEAL TO THE
YANG DI-PERTUAN AGONG

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE COURT OF APPEAL AT KUALA LUMPUR

F.M. Civil Appeal No. 23 of 1958

BETWEEN

CHUA CHEE CHOR ... Appellant

- and -

10

- 1. CHUA KIM YONG administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased
- 2. KWONG KEH SAN (f) the administratrix of the estate of Chua Kee Law, deceased
- 3. CHUA KIM SWEE
- 4. CHUA KIM YONG
- 5. CHUA KIM HOON ... Respondents

(In the matter of Kuala Trengganu High Court Civil Suit No.29 of 1953

BETWEEN

20

- 1. CHUA KIM YONG administrator of the estate of Chua Ah Chee alias Chua Kee Peng, deceased.
- 2. KWONG KEH SAN (f) the administratrix of the estate of Chua Kee Law, deceased
- 3. CHUA KIM SWEE
- 4. CHUA KIM YONG
- 5. CHUA KIM HOON ... Plaintiffs

- and -

CHUA CHEE CHOR ... Defendant)

30

BEFORE: THE HONOURABLE MR. JUSTICE HILL, B.D.L.
AG: CHIEF JUSTICE, FEDERATION OF MALAYA;
THE HONOURABLE MR. JUSTICE GOOD,
JUDGE OF APPEAL; And
THE HONOURABLE MR. JUSTICE RIGBY.

IN OPEN COURT

This 2nd day of August, 1960

In the
Court of Appeal
at Kuala Lumpur

No. 40

Order granting
final leave to
Appeal to the
Yang di-Pertuan
Agong.

2nd August,
1960.

In the
Court of Appeal
at Kuala Lumpur

O R D E R

No. 40
Order granting
final leave to
Appeal to the
Yang di-Pertuan
Agong.
2nd August,
1960
- continued.

UPON MOTION made unto the Court this day by Mr. Lall Singh Muker of Counsel for the abovenamed Appellant and in the absence of Che Maidin bin Mohd. Ibrahim the Pleader for the Respondents though duly served AND UPON READING the Notice of Motion dated the 16th day of July 1960 and the affidavit of Chua Chee Chor sworn on the 16th day of July, 1960 and filed herein on the 18th day of July, 1960 IT IS ORDERED that final leave be and is hereby granted to the Appellant to appeal to His Majesty the Yang di-Pertuan Agong against the judgment of the Court of Appeal herein dated the 22nd day of August 1959 AND IT IS ORDERED that the costs of this application be costs in the said Appeal.

10

Given under my hand and the seal of the Court
this 2nd day of August, 1960.

Assistant Registrar,
Court of Appeal,
Federation of Malaya.

20

Exhibits

E X H I B I T S

D.5.

Exhibit D.5. - POWER OF ATTORNEY No.740/52

Power of
Attorney
No.740/52.

Translation

POWER OF ATTORNEY

3rd September,
1938.

Praecepte No.740/52 Stamp .50
Fees amounting to \$4/-
have been duly Collected. This document is executed
in the Town of Kuala
Sd. ? Trengganu on the 9th day
ARSC. K.Tr. of Rajab 1357 (3.9.38)

30

I, the undersigned Chua Ah Poi, residing at No.13, Kampong Daik, Kuala Trengganu, on the date of this document do truly appoint Chua Kim Loh of Kedai Binjai ATTORNEY to act on my behalf and do the following according to the (following) conditions:-

Exhibits

D.5.

Power of
Attorney
No.740/52.3rd September,
1938

- continued.

1. To manage and carry on any business in the shop No.13 at Jalan Kampong Daik by using his own discretion in purchasing and selling, as if his own property, and to sell on credit to any persons he thinks fit.

2. To demand sue any person connected with the above business or my name and person, whether in Civil and Criminal matters or other matters, in any Court in the State of Trengganu.

10 3. To accept any claim statement of claim from any claimant and plaintiff connected with the said business or my person, whether in Civil or Criminal matters, and to appear and defend on my behalf in any place of trial (hearing) in the State of Trengganu until final disposal in any place of Trial (hearing) and to make any settlement in any such matters.

20 4. To execute and sign any document relating to my business or my name and to receive any payment made by any person to me and to sign such receipt.

5. Anything done through the words and letter or action of Chua Kin Loh shall be the same as mine and I ratify same.

In witness whereof the abovenames and their hands hereunder in the presence of witnesses: that is all.

Signature of Donee

Sd.

(In Chinese characters)

Signature of Donor

Sd.

(In Chinese characters)

30 Witness:

Sd.

(I.S.)

(Chop of the Magistrate,
State of Trengganu)

P.W.L.No.8/38
Ja'far bin Ali,
Fee \$2/- Sd. Ja'far.

Supreme Court Trengganu
No.60/57: Register 1/56
Dated 9.7.57
3.9.38

40 Sd:
Collector of Stamp
Revenue, Kuala Trengganu.

Sd:
Registrar Supreme Court
Trengganu.

Supreme Court Translation
No.82/52 Folio Words
Fee \$4/- Pr.No. /52.
Translated by
Sd: Musa
Certificated Interpreter,
Supreme Court, Kuala
Trengganu.

ExhibitsExhibit P.14. - AGREEMENT.

P.14
 Agreement.
 1st June, 1939.

Stamp 25 cts.
 Sd. A. Bakar 3.6.39
 Collector of Stamp Revenue,
 Kuala Trengganu.

AGREEMENT.

THIS AGREEMENT made this 1st day of June, 1939 at Kuala Trengganu between (1) TENG AH LEONG (2) NG KOW PEK (3) CHUA KEE LOH (4) NG AH KOK (5) NG MOEW LEM (6) CHUA KENG SENG hereinafter called the "partner".

10

Whereas a partnership is in existence namely Thye Sen Sin Kee Bus Co. and that the partners are anxious to reorganise the business of the partnership.

WHEREAS the partners are desirous of continuing the partnership and it is hereby agreed as follows:-

(1) That the partnership now known as the Thye Sen Sin Kee Bus Co. shall hereinafter be known as the Trengganu Bus Co. and the office of the partnership shall be at 21 Jalan Banggol, Kuala Trengganu.

20

(2) The object for which the partnership is established is:-

To carry on in the State of Trengganu the business of running Lorries and Omnibuses of all kinds and all or other public or private conveyance and such lines and routes as the partnership think fit and to transport passengers, and goods, and generally to do any other business as may from time to time be determined by the majority of the partners.

30

(3) The partnership shall consist of Seventy Shares at the rate of \$100/- for each share as shown in the schedule annexed.

(4) The partnership shall be managed by a Manager and an Assistant Manager and for the time being the Manager shall be Chua Kee Loh and the Assistant Manager shall be Teng Ah Leong both of whom shall hold office at the pleasure of the majority of the partners.

(5) All documents, receipts, discharges (except cheque) and any type of undertaking of the partnership shall be signed by Chua Kee Loh and shall be binding on the partnership.

40

(6) All affairs of the partnership shall be directed by Ng Kow Pek, Chua Kee Loh and Teng Ah Leng and the majority of whose decision shall be final and that Chua Kee Loh cannot in any matter act contrary to the decision except that he shall have power without authority or any other partner to employ and discharge employees of the partnership.

10 (7) The partners shall be for a period of fifteen years and no partner shall during that period withdraw from the partnership and in the event of death or insanity or becoming incapable the partnership shall be carried on by the personal representative of the partner becoming so incapable either by death or insanity or in whatever manner.

20 (8) Ng Kow Pek and Chua Lee Loh are authorised to operate upon the accounts of the partnership without the consent of the other partners up to an amount of \$200/- and no money shall be withdrawn from the Bank except for the benefit and on account of the partnership business. No money in excess of \$200/- shall be withdrawn without the consent of the majority of the partners.

(9) Chua Kee Loh shall pay all moneys belonging to the partnership into the Mercantile Bank of India, Australia and China at Kuala Trengganu and on no account shall he keep any money in excess of \$100/-.

30 (10) All cars, lorries and omnibus belonging and any other property belonging to the partnership or any may become the property of the partnership shall be registered in the name of Chua Kee Loh as Manager of Trengganu Bus Co. and Chua Kee Loh shall not on any account transfer pledge or in any way convey any property in his name without the authority of the majority of the partners.

40 (11) For any act or things to be done whether expressed or not in this agreement any decision of the majority of the partners shall be binding on the partnership.

(12) Without the consent of the majority of the partners Ng Kow Pek, Chua Kee Loh and Tan Ah Leng shall not at any time pledge the interest of the partnership business or in any way obtain credit or incur any liability.

Exhibits

P.14

Agreement.

1st June, 1939

- continued.

(13) The Manager shall keep proper account books which shall be opened for the inspection of any partner at any time.

(14) No partner shall without the consent of the majority of the other partners sell or pledge or in any way incur any liability in respect of his share but when a partner is desirous of selling his share such sale shall be first offered to the partnership and if by a majority of vote refused to purchase the share then the partner intending to sell his share shall be at liberty to sell his share to whomsoever he pleases and such purchaser shall be admitted as a partner of this partnership upon which terms and conditions as herein stated.

10

(15) Except with the consent of the majority of the partners no other shall be admitted into the partnership.

In witness whereof we have hereunto set our hands the day and year above written at Kuala Trengganu in the presence of Maidin ben Mohamed Ibrahim, Pleader for the State of Trengganu and in the presence of each other.

20

(1) Sd.	In Chinese
(2) Sd.	In Chinese
(3) Sd.	In Chinese
(4) Sd.	In Chinese
(5) Sd.	In Chinese
(6) Sd.	In Chinese

Signed in my presence

& prepared by me. Sd. Maidin bin Mohd. Ibrahim.

30

S C H E D U L E

<u>Name of Partners</u>	<u>No. of Shares</u>	<u>Total Value</u>
TENG AH LENG	7	₹ 700.00
NG KOW PEK	21	₹2100.00
CHUA KEE LOH	14	₹1400.00
NG AH KOK	17½	₹1750.00
NG MOEW LIM	7	₹ 700.00
CHUA KENG SENG	5½	₹ 550.00
	<u>70</u>	<u>₹7000.00</u>

Exhibit P.15. - POWER OF ATTORNEY Reg. No.51/1953ExhibitsPOWER OF ATTORNEY

P.15

KNOW ALL MEN BY THESE PRESENTS that we (1) NG BOON SEONG of 21, Jalan Banggol, Kuala Trengganu (2) NG BOON LEN of Losong Dato' Kuala Trengganu (3) CHUA KENG SIN of 21, Jalan Banggol, Kuala Trengganu (4) CHUA CHWEE CHOR of Kedai Binjai, Kuala Trengganu (5) LAU KIM HUAT of Bandar Jerteh, Kuala Trengganu (6) TAN CHEW YAM of Singapore (7) NG AH HONG of Singapore, (8) NG AH CHEW of Singapore (9) NG AH KOW of Singapore (10) LIM KOH of Singapore (11) LOW AH KEE of Singapore and (12) NG KIM HUAT of Singapore, the ex Partners of the Trengganu Bus Company, Kuala Trengganu, do hereby nominate and appoint NG KOW PECK of 98, Jalan Banggol, Kuala Trengganu, to be Attorney for us and in our names to do all or any of the following things within the Federation of Malaya and the Island of Singapore.

Power of
Attorney Reg.
No.51/1953.
1st August,
1939.

1. To receive any monies which may be paid on the Company's War Damage Claims Nos. TREN/332.
2. To appear before any Judge, Magistrate or any Public Officer in connection with any of the matters herein contained.
3. To execute and sign any instruments necessary in connection with the Claims aforementioned.
4. To concur in doing any of the acts and things herein contained with any person or persons interested in the premises

AND GENERALLY to do all acts and things and sign and execute all such documents as may be necessary for effectuating any of the purpose aforesaid as fully and completely as we ourselves could do if personally present.

AND we hereby agreed to ratify and confirm all and whatsoever our said attorney shall lawfully do in the premises by virtue of those presents.

IN WITNESS whereof we have hereunto set our hands and seal this 1st day of August, 1953.

SIGNED, SEALED AND DELIVERED) Sd. Chinese
by the above-named donors (1)) (1) Ng Boon Seng.
Ng Boon Seng (2) Ng Boon Len) Sd. Chinese
(3) Chua Ken Sin (4) Chua) (2) Ng Boon Lan
Chwee Chor and (5) Lau Kim) Sd. Chinese
Huat of Kuala Trengganu in) (3) Chua Keng Sin
the presence of) Sd. Chinese
Sd. Mohd. Amin) (4) Chua Chwee Chor
Circuit Magistrate 'C') Sd. Chinese
Kuala Trengganu.) (5) Lau Kim Huat.

Before:

Chop Magistrate,
Sd. Mohd. Amin.

Exhibits

P.15

Power of
Attorney Reg.
No.51/1953.

1st August,
1939

- continued.

Explained by us:
Musa and Lau Chee Hai.
Malay & Chinese Interpreters, 1.8.53.
Supreme Court, F.M.,
Kuala Trengganu.

AUTHENTICATION

I, MOHAMED AMIN BIN ABDULLAH Magistrate officiating at Kuala Trengganu hereby certify that the signature of the donors above-named (Donors 1 to 5) were written in my presence on this first day of August, 1953 and is according to information given by trustworthy and respectable persons namely:- 10

- | | |
|--------------------------------|---|
| 1. Mr. Lau Chee Hai |) both of Magis-
trate Court
Kuala Trengganu. |
| 2. Mr. Syed Ahmad bin Abdullah | |

which information I verily believe the true signature of (1) Ng Boon Seng (2) Ng Boon Len (3) Chua Keng Sin (4) Chua Chwee Chor and (5) Lau Kim Huat, who have acknowledged to me that they are of full age and that they have voluntarily executed this instrument. Chop Magistrate Sd. Mohd.Amin. 20

Identified by: 1. Lau Chee Hai.
2. Syed Ahmad bin Abu Bakar

SIGNED, SEALED AND DELIVERED)	Sd. Chinese	
by the above-named donors (6))	(6) Tan Chew Yam	
Tan Chew Yam (7) Ng Ah Hong)	Sd. Chinese	
(8) Ng Ah Chew (9) Ng Ah Chow)	(7) Ng Ah Hong	
(10) Lim Koh (11) Loh Ah Kee)	Sd. Chinese	
(12) Ng Kim Huat of Singapore)	(8) Ng Ah Chew	30
in the presence of)	Sd. Chinese	
Chew Hui Thiam,	(9) Ng Ah Kow	
Commissioner for Oaths,	Sd. Chinese	
Supreme Court,	(10) Lim Koh	
Singapore.	Sd. Chinese	
	(11) Low Ah Kee	
	Sd. Chinese	
	(12) Ng Kim Huat	

AUTHENTICATION

I, CHEW HUI THIAN Commissioner for Oaths officiating at Singapore hereby certify that the signatures of the abovenamed donors (Donors Nos.6 to 12) were written in my presence on this 10th day of August, 1953 and is according to information given by trustworthy and respectable persons namely:- 40

1. Ng Ah Kim 299 Victoria St. Singapore.
2. Tan Chuan 118 Jalan Besar

which information I verily believe the true signature of (6) Tan Chew Yam (7) Ng Ah Hong (8) Ng Ah Kow (10) Lim Koh (11) Low Ah Kee and (12) Ng Kim Huat of Singapore, who have acknowledged to me that they are of full age and that they have voluntarily executed this instrument.

Identified by: 1. Sd. Chinese
2. Sd. Chinese

Witness my hand.

10

Sd. Chew Hui Thian
Commissioner for Oaths,
Supreme Court,
Singapore.

Registered as P/A No.51/1953
True copy deposited in Registry
Supreme Court, Kuala Trengganu. 24.8.53.

20

Court Serial No.28/53 Che Ngah bin Haji Ismail
Mohamed Amin Aboullah. Chop Supreme Court,
Date 1.8.53. Sd. Mahmud Mohamed Hassim
Assistant Registrar,
Supreme Court,
Kuala Trengganu.

Exhibit P.1 (1) - CASH SALE BOOK ENTRY
(also Exhibit P.2)

English translation from Chinese
Marked 'H' in red.

(1)

Mr. Long Ah Hock

To repair of dynamo fe
One item only

.30

30

Dated 8.8.28
Sd. Gim Swee

Entered
Ban Seng.

Translated by Lau Chee Hai
& Musa bin Awang on
22.4.54.

Exhibits

P.15

Power of
Attorney Reg.
No.51/1953.

1st August,
1939

- continued.

P.1

(1) Cash Sale
Book Entry
(also Exhibit
P.2)

8th August,
1939
(28th year
Chinese
Republic)

ExhibitsExhibit P.1 (2) - CASH SALE BOOK ENTRY
(also Exhibit P.2)

P.1

(2) Cash Sale
Book Entry
(also Exhibit
P.2)
- August 1939
(28th year
Chinese
Republic)

English Translation from Chinese

(2)

Marked 'I' in Red.

Mr. Ah Choo.

To $\frac{1}{2}$ dosen pieces of white (?)	1.05
To 10 Dunlop tubes	3.90
To Roadster (?) 6 pieces	9.30
To Brake one piece	.15
To chains (ropes) white, 2	.12

10

Settled

Sd. Chua Gim Yong.

Dated 8.28.

Translated on 22.4.54 by
Lau Chee Hai & Musa bin Awang.
Fee \$2/-.

P.1

Exhibit P.1 (3) - CASH SALE BOOK ENTRY
(also Exhibit P.3)

(3) Cash Sale
Book Entry
(also Exhibit
P.3)
3rd March,
1940
(29th year of
Chinese
Republic)

English Translation from Chinese

(3)

Marked "A" in Red.

20

Hussin bin Mat Hassan.

To Black painting fee	
To two rims for front and rear wheels	
To repair of frame	

Total for three items	\$8.50
-----------------------	--------

Settled

Sd. G. Swee (In Roman Characters)

Dated 3.3.29th year.

Translated by Lau Chee Hai
& Musa bin Awang on 22.4.54.
Fee \$2/-.

Exhibit P.1 (4) - CASH SALE BOOK
(also Exhibit P.4)

Exhibits

P.1

English Translation

P4.

CHUA BAN SENG

No.145 Kedai Binjai, Trengganu

Bicycle given for repairs if not retained by paying the charges within three months will be put for public auction, without further notice.

(4) Cash Sale Book
(also Exhibit P.4)

16th October, 1940
(29th year of Chinese Republic)

Mr. Poh Sia

10 To one piece (?)

Lamp	.80 cts.
1 lamp	.80 cts.

1 item .80 cts.

16th day of tenth moon of 29th year of Chinese Republic.

Bill from Kee Loh.

Translated by Lau Chee Hai & Musa bin Awang, Interpreters Court, K.Tr.

20 Exhibit P.1 (5) - CASH SALE BOOK

(5) Cash Sale Book

English Translation

No.460

Marked "K" in red

CHUA BAN SENG

No.145 Kedai Binjai, Trengganu

Bicycle given for repair if not retaken by paying the charge within three months will be put for public auction, without further notice.

16th November, 1940
(29th year of Chinese Republic).

Cash Sale

30 To 10 Dunlop tubes	6.50
To 5 Dunlop tyres	5.50
To 2 Dunlop Roadster	4.00
To tyres Ba Yok Lian, 5 tyres	5.50
To small tubes, 1 packet	1.00
To a pair brushes	.16
	<u>22.60</u>

Settled.

Dated 10.11.29th Chinese Republic Year.

Bill from Translated by Lau Chee Hair &
Sd. C.G. Swee. Musa bin Awang, Interpreters,
Court, K. Tr.

ExhibitsExhibit P.1(6) - CASH SALE BOOK

P.1

English Translation

'L' No. 471

(6) Cash Sale
Book25th November,
1940.
(29th year of
Chinese
Republic)CHUA BAN SENG
No. 145 Kedai Binjai, Trengganu

Bicycle given for repair if not retaken by
paying the charges within three months will be put
for public auction, without further notice.

Mr. Ph. Sia

To one Dunlop tube	.75 cts.	
To Dunlop (?)	8	10
(1) tube	.75 cts	
1 solution	8 cts.	
Total for two items	.83 cts.	

25 day of 11th Moon of 29th year
of Chinese Republic.

Bill from Kee Loh
(Kim)

Translated by Lau Chee Hai &
Musa bin Awang, Interpreters,
Court, K.Tr. 22.4.54.

20

(7) Cash Sale
Book3rd December,
1940
(29th year of
Chinese
Republic)Exhibit P.1 (7) - CASH SALE BOOKEnglish Translation

"M"

No. 488

CHUA BAN SENG
No. 145 Kedai Binjai, Trengganu

Bicycle given for repair if not taken by
paying the charges within three months will be put
for public auction, without further notice.

Mr. Hup Huat.

To one brush	.75	
To British make chain, one	1.60	30
To brake (iron) 2 pieces	.15	
To rubber brake 4 pieces	.20	
To brake nut	.10	

Total 4 items 2.90
3rd day of 12th Moon of 29th year
of Chinese Republic.

Bill from Chua Kim Swee.

Translated by Lau Chee Hai &
Musa Bin Awang, Interpreters,
Court, K.Tr.

40

Exhibit P.1 (8) - RECEIPT H.No.2356ExhibitsTranslated from Chinese

8

P.1

CHUA BAN SENG
 145 Kedai Binjai, Trengganu

(8) Receipt
 H.No.2356.

Receipt H.No.2356

3rd August,
 1941

A. Seng Ma Tan paid dollars thirteen only
 for goods dated 3rd day of the eighth Moon of the
 30th Chinese Republic.

Sd. illegible

10

(In Romanised characters)

3.8.41

(Chop of Ban Seng Hin)

TAKKA LAO

Translated on 25.1.54
 by Mr.Lau Chee Nai and
 Musa bin Awang.

Exhibit P.1 (9) - RECEIPT

(9) Receipt.

Translated from Chinese

9

3rd August,
 1941.

20

CHOP BAN SENG
 TRENGGANU

A Seng Ma Tam bin Jin Ma (?)

This receipt certifies that one B.S.A. bicycle,
 22" No.J.6389, was sold for fifty eight Dollars only,
 which is received in full and this receipt is issued
 as evidence.

3rd day of eighth Moon of the 30th Year of the
 Chinese Republic.

Sd. illegible

30

(In Romanised Characters)

3.8.41.

(Chop of Ban Seng Hin)

TAKKA LAO.

Translated on 25.1.1954 by
 Mr. (Lau Chee Hai) and Musa Bin Awang.

Exhibits

P.1

(27) Chinese
Account Book
pp.113 to 135
(also Exhibit
P.7)

10th August,
1941 to 26th
February, 1944

Exhibit P.1 (27) - CHINESE ACCOUNT BOOK pp.113-135
(also Exhibit P.7)

Translated from Chinese Account Book

From page 113 to 135.

113

Che Ibrahim bin Che Man, Hirer of vehicle, residing
at Losong. Ismail bin Abdullah, guarantor,

First payment \$20.00

For 12th Moon/Month: 2.4. payment of the instalment
of vehicle \$10.00

10

For first month: 12th day of 5th Moon/Month, pay-
ment of hire-purchase instalment,
\$6.00

2. 5th day of sixth Moon/Month, payment of instal-
ment of hire-purchase vehicle \$10.00 only

9th day of second Moon/Month, payment of instal-
ment of hire-purchase vehicle \$10.00

30.11.30 (Republic of China) ?? two words undecipher-
ed: they may mean 'was sent'

Raleigh, Humber, Green colour, height 22 inches,
No.AF72872 and bag, complete for one,
valued ninety dollars only.

20

Hereafter to pay ten dollars monthly.

114

Writing on this page is in English.

115

Ismail bin Hitam (?) Go Hitam (?)

30.11.30 (Republic of China Year)

To payment of hire-purchase instalment	\$3.00	
1.3 " " " " " "	1.00	30
3.5 " " vehicle cost	1.00	
3.6 " " " " vehicle	1.00	
4.7 " of instalment of vehicle	1.00	Dunlop 22"
1.8 " of " " " "	1.00	No.868840
31.8 " " " " " "	1.00	second-
30.10 " " towards cost of vehicle	1.00	hand bi-
31.1 " " -do. -	1.00	cycle @
28.4 " " " " " "	1.00	\$28.70.
15.7 " " " " " "	1.00	To pay
27.9 " " " " " "	1.00	\$5.00
10.10 " " " " " "	1.00	monthly
19.2 " " " " " "	13.70	40

Accounts settled.

Page 116. Writing on this page has been crossed out - hence no English translation.

Exhibits

P.1

Page 117

Che Ismail bin Haji Endut, Kampong Kolam, Kuala Trengganu, clerk, Guarantor: See Hock Chai

15.2.31 Chinese Republic Year.

To one bicycle, Raleigh No. AF23457 together with speed, hub brake, bag, complete at \$150.00

To pay dollars five monthly.

10 Payments made by See Hock Chai on 8 occasions amounting to \$85.00

1753. 4th day of 4th Moon, payment of

				hire-purchase,	\$3.00	
29th	"	"	12th	"	payment by cash	\$5.00
5th	"	"	5th	"	payment of	
				hire-purchase	\$2.00	
8th	"	"	5th	"	"	\$5.00
			"	"	"	52.50

Less commission \$2.50

20 Both parties' a/c settled.

Page 118 No writing is on this page.

Page 119 Teo Wan Neng 15.7 taken cash \$40.00

14.12 To payment \$70.00

12. 4 " " \$25.00

15. 7 " " \$15.00

Previously received one Raleigh Sports bicycle No. AF 22285.

Purchase price for one is \$83.00

30 17. 8. Payment of hire purchase \$5.00
12.11 " " " " 5.00

Page 120

Translation of Malay writings.

Balance	29.3.02	\$62.90	60.00
Paid	29.5.02	<u>5.00</u>	<u>37.90</u>
	Balance	57.90	22.10
19.11.02	Paid	<u>5.00</u>	
	Balance	52.90	
28.12.02	Paid	<u>5.00</u>	
	Balance	47.90	

(27) Chinese Account Book pp.113 to 135 (also Exhibit P.7)

10th August, 1941 to 26th February, 1944

- continued.

<u>Exhibits</u>	6.4.03	Paid	<u>5.00</u>	
P.1		Balance	42.90	
(27) Chinese Account Book pp.113 to 135 (also Exhibit P.7)	8.5.03	Paid	<u>5.00</u>	
		Balance	37.90	
		Paid	<u>37.90</u>	
			00.00	
			PAID	

10th August, 1941 to 26th February, 1944
- continued.

Translation of Chinese writings
Endut Wan Man bin Ismail

1.5. last year on closing account there is a balance due in the sum of \$170.80. 10

Total for 14 payments is \$113.50.

Set off - there is a balance still due \$57.20

8.5. Payment \$5.00

29.11	paid in cash	\$5.00
28.12	" " "	5.00
6.4.	" to hire-purchase	\$5.00

Page 121

Hirer: Teo Poi

Guarantor: Lau Peck Tien: Chop Kin Hin. residing (undeciphered) 20

17.5 paid \$8.00 only.

13.4.31 Chinese Republican Year Raleigh Sports, Green 21" high, No.AF 98227 and hub brake, speed gear, bag complete one bicycle for \$78.00

To pay monthly \$8.00
Less 4 per cent \$3.00

28.5. paid in cash in the sum of \$67.00
Total for 3 items is \$70.00 30

Both parties' a/c settled.

Page 122

Ten Yen Eng	one bicycle	4.10.02	
	No.(158967)	Old bicycle	\$35.00
		Lock	<u>2.00</u>
			<u>37.00</u>

Sd. illegible.

Note: The above writing on page 122 is in Romanised Malay & English.

Paid fifteen dollars only	1st Inst.		
Paid five only	2nd "	30.10.02	40
Paid five only ALL PAID	3rd "	28.11.02	
Twelve dollars only	4th "	6.1.02	

Note: the above crossed out writings are in English.

The following are from Chinese writingsExhibits

Mr. Eng Gan Guat 4.10, took one Raleigh second hand bicycle, black colour, height 24 inches, for \$35.00, stand \$2.00.

P.1

Paid on same date \$15.00

30.10 paid \$5.00

28.11 paid \$5.00

6.1 paid 12.00

Both settled.

(27) Chinese Account Book pp.113 to 135 (also Exhibit P.7)

10th August, 1941 to 26th February, 1944

10 Page 123

- continued.

Mr. Lieu Keng Siang, hirer,
6.5. 17th Year (Japanese Year)
Hire one Dunlop bicycle, height 22", No.R87584, black, sports, complete for one bicycle for \$75.00 only; To pay monthly \$5.00.

2.6. Paid towards hire-purchase \$10.00

30.6 " " " " 10.00

4.7. " " " " 10.00

31.8 " " " " 10.00

20 1.10 " " " " 15.00

Both settled.

Page 124 has no writing.Page 125

Jerteh Magistrate, Che (undeciphered: may be Ishak) Hercules bicycle, green (undeciphered), sports with bag (undeciphered) No.765602, height 22", costs \$120.00 only. To pay \$5.00 monthly. Paid by one second hand bicycle for \$18.00 (Note. crossed out)

30 2.5. paid cash \$5.00

30.7 " " 5.00

Page 126 (Translation from Romanised Malay)

I, Lim Meng Kih (may be Kit), postman, Kuala Trengganu, acknowledge receipt one bicycle No.MX337 for \$70.00 and to pay by instalment and in June it was paid \$5.00 only (dollars five) and if not paid within one month the bicycle will be forfeited.

Sd. illegible
3.6.2602

ExhibitsPage 127

P.1
 (27) Chinese
 Account Book
 pp.113 to 135
 (also Exhibit
 P.7)
 10th August,
 1941 to 26th
 February, 1944
 - continued.

Lim Beng Kiat, hirer, Post Office employee
 Tiong Kuat Chiang: guarantor.

3.6.31 (Chinese Republican Year).
 Take one Hercules sports bicycle, red, height 21",
 hub brake and lamp, at \$70.00 only - being con-
 sidered as second-hand bicycle.
 To pay \$5.00 monthly.

First payment, paid	\$5.00	
1.7 paid hire-purchase	\$5.00	10
4.9 " " "	5.00	
4.9 " by registered post	\$5.00	
3.11 " " "	4.00	
3.11 " " "	4.00	
3.11 " " "	2.00	
13.1.18 (Japanese Calendar)		
	paid cash	\$5.00
9.2 paid cash	\$5.00	
Total for 9 payments	\$40.00	
SET OFF. Balance of debt	\$30.00	20

Page 128

Bun Lim, 7.7. Closing account: still due \$73.60
 paid \$73.60

Chop Tai Ann, 19.19, paid (few letters ^{words} undeciphered)	
handed money	\$75.00
Chop Tai Snn: 26.9. paid (do.)	
handed money	\$75.00
26.9. Chop Ghee Seng (dc.)	
handed money	\$150.00

Page 129

30

Chua Kiu Pee, 11.8. take second hand bicycle, 22"
 high, at \$23.00 only. To pay monthly \$10.00.

Note: "Chua Kiu Poo" and "at \$23.00 only" have
 been crossed out.

Page 130

See Tong of Post Office,
 12.3.18th Year. sports vehicle, second hand, com-
 plete for one bicycle at \$60.00
 22.3. to one item \$2.50
 & necktie + at 25.
 + may mean tube cover.

40

Advance by one secondhand bicycle No.U.23079, 24"
Raleigh, at \$30.00 only.

Exhibits

P.1

1.5 Paid \$5.00
paid by one tube cover at .25 cts.

(27) Chinese
Account Book
pp.113 to 135
(also Exhibit
P.7)

Pages 131 to 134 appear to be torn off.

Page 135

Siu Eng Kee, 26.2.04.
26.2 to ... this month, sold one article for
\$800.00 only.

10th August,
1941 to 26th
February, 1944

- continued.

10 Translated on 8.2.54
by Lau Chee Hai
& Musa bin Awang.

Exhibit P.1 (10) - CASH SALE BOOK
(also Exhibit P.5)

(10) Cash Sale
Book
(also Exhibit
P.5)

English Translation
of carbon copy (duplicate)
of bill marked "B" in red.

No.620

12th October,
1941.

CHUA BAN SENG
No. 145 Kedai Binjai, Trengganu

20 Bicycle given for repairs if not retaken by
paying the charges within three months will be put
for public auction, without further notice.

Mr. Koh Tong Cher

To (? undeciphered) charges	.20 cts.
To 6 pieces of (undeciphered)	.10
To repair of Keng Tong Seng (?) one piece	.25
To repair of rear brake	.25
To repair (undeciphered) charge	.25

30 Total for 5 items 1.05

12th day of tenth Moon of 30th Year
of Chinese Republic.

Bill of/from Chua Ban Seng.

Translated by Lau Chee Hai, & Musa bin Awang,
Interpreters, Court, K. Trengganu.

ExhibitsExhibit P.1 (11) - CASH SALE BOOK
(also Exhibit P.5)

P.1

(11) Cash Sale
Book
(also Exhibit
P.5)5th March,
1942.English Translation
of duplicate copy of
bill marked "C" in red.

No.654

CHUA BAN SENG
No. 145 Kedai Binjai, TrengganuBicycle given for repairs if not retaken by
paying the charges within three months will be put
for public auction without further notice.

10

Cash sale.

To $\frac{1}{2}$ lb China wall green paint, 1 tin	.30
" $\frac{1}{4}$ lb Globe brand white paint 1 "	.20
Total for 2 items	<u>.50</u>

5th day of 3rd Moon of 31st Chinese
Republican year.

Bill from Chua Kim Yong.

Translated by Lau Chee Hai &
Musa bin Awang, Interpreters,
Court, Trengganu.

20

(14) Cash Sale
Book
(also Exhibit
P.5)14 day of 5th
Moon of Showa
17th year
(Jap.)Exhibit P.1 (14) - CASH SALE BOOK
(also Exhibit P.5)English Translation
(of duplicate copy of
Bill marked F.1.)

No.668

CHUA BAN SENG
No. 145 Kedai Binjai, TrengganuBicycle given for repair if not retaken by
paying the charges within three months will be put
up for public auction, without further notice.

30

Messrs. Kiu Liong Co.	
To chain, one piece	5.50
To (undeciphered ?) one	<u>1.80</u>
Total for two items	<u>7.30</u>

14 day of 5th Moon of Showa 17th year
(Japanese year)

Bill from Swee.

Translated by Lau Chee Hai &
Musa bin Awang, Interpreters,
Court, K.Tr.
22.4.54 \$2/-

40

Exhibit P.1 (15) - CASH SALE BOOKExhibits

English Translation

"F2"

P.1

(?) 5/52 Chu (?)
22 44 8/6.

(15) Cash Sale
Book

CHUA BAN SENG
No. 145 Kedai Binjai, Trengganu.

5rd June 1942
(31st year of
the Chinese
Republic)

Bicycle given for repairs if not retaken by
paying the charges within three months will be put
for public auction, without further notice.

10 Public Works Department

To (Hua Kiong Chong ? undeciphered)
one piece

6.50

To rear (undeciphered)

1.20

To 18 pieces balls (?)

.72

To 2 brake gears

.40

Total for 4 items

8.82

3 day of 6 31st year of
Chinese Republic

3.6.02
(3.6.1942)

20 Bill from Sd. Yong

Translated by Lau Chee Hai &
Musa bin Awang, Interpreters,
Court, K. Trengganu.

Exhibit P.1 (16) - CASH SALE BOOK
(also Exhibit P.2)

(16) Cash Sale
Book
(also Exhibit
P.2)

English Translation
from Chinese.

Marked "C" in red

No date.

Mr. Wee Boon Lin

30 To one Raleigh bicycle Rajah,
black colour, 22"

\$36.50

By Payment by cash \$30.00

Set off balance of debt due is 6.50

AG3184
7 (?)

Copied (Entered)

Translated by Mr. Lau Chee Hai &
Musa bin Awang on 22.4.54 Fee \$2.00.

ExhibitsExhibit P.17 - TRENGGANU BUS CO. LTD. JOURNAL 1946

P.17

English translation - from Trengganu Bus Co. Ltd.
Journal 1946 (Jit Cheng) - Page marked "X".Trengganu Bus
Co. Ltd.
Journal 1946.

To	Capital, Ong Boon Siong, 16 Shares	8000.00	By	Cash, Ong Boon Siong's Capital	8000.00	
"	Chua Ban Seng, 14 Shares	7000.00	"	Chua Ban Seng's Capital	7000.00	
"	Hock Seng Chan 12½ shares	6250.00	"	Hock Seng Cheng's Capital	6250.00	10
"	Ng Kow Peck 12 Shares	6000.00	"	Ng Kow Peck's Capital	6000.00	
"	Tan Chiu 10 Shares	5000.00	"	Tan Chiu Capital	5000.00	
"	Wee Chiu Kwee 9 Shares	4500.00	"	Wee Chiu Kwee's Capital	4500.00	
"	Lim Kor 8 Shares	4000.00	"	Lim Kor's Capital	4000.00	
"	Wee Yan Beng 7 Shares	3500.00	"	Wee Yan Beng's Capital	3500.00	20
"	Law Kim What 7 Shares	3500.00	"	Law Kim What's Capital	3500.00	
"	Wee Chin Seong 6 Shares	3000.00	"	Wee Chin Seong's Capital	3000.00	
"	Law Kim Chee 5 Shares	2500.00	"	Law Kim Chee's Capital	2500.00	
"	Chua Keng Seng 3½ Shares	1750.00	"	Chua Keng Seng's Capital	1750.00	
Cash	Ong Boon Siong Still owing	2500.00	"	Ong Boon Siong Capital	2500.00	30
"	Chua Ban Seng still owing	5600.00	"	Chua Ban Seng Capital	5600.00	
"	Hock Seng Chan still owing	5000.00	"	Hock Seng Chan Capital	5000.00	
"	Ng Kaw Peck still owing	1200.00	"	Ng Kaw Peck Capital	1200.00	
"	Wee Chiu Kwee still owing	900.00	"	Wee Chiu Kwee Capital	900.00	
"	Tan Chiu Tan still owing	1000.00	"	Tan Chiu Tan Capital	1000.00	40
"	Lim Kor still owing	800.00	"	Lim Kor Capital	800.00	
"	Wee Yan Beng still owing	700.00	"	Wee Yan Beng Capital	700.00	
"	Law Kim What still owing	1300.00	"	Law Kim What Capital	1300.00	
"	Wee Chin Seong still owing	1700.00	"	Wee Chin Seong Capital	1700.00	
"	Law Kim Chee still owing	500.00	"	Law Kim Chee Capital	500.00	50
"	Chua Keng Seng still owing	1400.00	"	Chua Keng Seng Capital	1400.00	

Translated on 23.10.54 by Lau Chee Hai, Chinese-Malay
Interpreter and Musa bin Awang, Malay-English Inter-
preter.

English translation - from Trengganu Bus Co. Ltd.,
Journal 1946 (Jit Cheng) at page marked 'Y'

Exhibits

P.17

Wednesday -- 4.7.1946.

	To S.3176, Besut		By Cash, bus 3176	105.50
	Bus fare	105.50		
	" S.3706, Jerteh "	178.50	" " " 3706	178.50
	" S.2955, Besut "	161.50	" " " 2955	161.50
	" Chua Ban Seng's		" " Chua Ban	
	share	5600.00	Seng	5600.00
10	" Hock Seng		" " Hock Seng	
	Chan's	5000.00	Chan	5000.00
	" Wee Chin		" " Wee Chin	
	Siang's	1700.00	Siang	1700.00
	" Wee Boon		" " Wee Boon	
	Siong's	2500.00	Siong	2500.00
	" Wee Yap B		" " Wee Yap	
	Beng's	700.00	Beng	700.00
	" Ng Kaw		" " Ng Kaw	
	Peck's	1200.00	Peck	1200.00
20	" Wee Chiu		" " Wee Chiu	
	Kwee	900.00	Kwee	900.00
	" Tan Chiu		" " Tan Chiu	
	Tan's	1000.00	Tan	1000.00
	" Lim Kor's	800.00	" " Lim Kor	800.00
	" Law Kim		" " Law Kim	
	What's	600.00	What	600.00
	" Law Kim		" " Law Kim	
	Chee's	500.00	Chee	500.00
30	" Chua Keng		" " Chua Keng	
	Seng's	1050.00	Seng	1050.00

Trengganu Bus
Co. Ltd.
Journal 1946
- continued.

Translated on 23.10.1954 by
Lau Chee Hai, Chinese-Malay
Interpreter, & Musa bin Awang,
Malay English Interpreter.

ExhibitsExhibit P.19 - LEDGER of UNION TRANSPORT CO. LTD.

P.19

Translation of pages 1 & 2 & dated 1st April 1946
of a Chinese Ledger Marked "X".Ledger of Union
Transport Co.
Ltd.In the Supreme Court. K. Trengganu
Civil Suit No.29 of 1953

1st April, 1946.

1st April 1946,
35th Year of the Chinese Republic.Capital Account (Top)

Chua Ben Seng	44	fully-paid shares	\$4,400.00	
Chua Sze Tiong	38	" "	3,800.00	10
Low Sze Bee	24	" "	2,400.00	
Tan Boon Tin ?	24	" "	2,400.00	
Tan Boon Beng	18	" "	1,800.00	
Chua Keng Seng	20	" "	2,000.00	
Wee Ang Chee	12	" "	1,200.00	
Wee Kiu Kwai	12	" "	1,200.00	
Wee Geok Yen	12	" "	1,200.00	
Wee Kiu Pit	12	" "	1,200.00	
Low Kim Huat	12	" "	1,200.00	
Tong Hwang				20
Eastern & Co.)	66	" "	6,600.00	
Tan Ang Thi	36	" "	3,600.00	
Low Sze Bee	6	" "	600.00	
Chop Teck Hong	10	" "	1,000.00	
Gan Jong Bian	8	" "	800.00	
Oon Keng Cheng	5	" "	500.00	
Lee Ah Luk	12	" "	1,200.00	
Wee Ang Chee	6	" "	600.00	
Low (family) ?	8	" "	800.00	
Chua Sze Tiong	2	" "	200.00	30
Wee (of middle house)	19	" "	1,900.00	
Teck Hong	18	" "	1,800.00	
Ban Swee Huat	8	" "	800.00	
Lee Ah Luk	14	" "	1,400.00	
Wee Ang Chee	12	" "	1,200.00	
Chua Choon	2	" "	200.00	
Tan Ang Thi	9	" "	900.00	
Chua Ban Seng	2	" "	200.00	
Low Sze Bee	10	" "	1,000.00	
Wee Jin Wan	1	" "	100.00	40
Bee Chin Hoi	20	" "	2,000.00	
Teck Hong (bought over from Tan Boon Tin)	12	" "	1,200.00	
Ban Swee Huat (bought over from Tan Boon Tin)	12	" "	1,200.00	

	Wee (of middle house) (bought over from Wee Ang Chee)	6 fully-paid shares	§ 600.00
	Chua Choon (bought over from Chua Sze Tiong)	10 " "	1,000.00
10	Chua Kim Siong (bought over from Low Sze Bee)	20 " "	2,000.00
	Lim Kai Jen (bought over from Low Kim Huat)	6 " "	600.00
	Low Kim Huat	4 " "	400.00
	Low (family)	2 " "	200.00
	Tan Kiu Beng	2 " "	200.00

Exhibits

P.19

Ledger of Union Transport Co. Ltd.

1st April, 1946
- continuedCapital Account (bottom)

	Tan Boon Tin (16/8 sold to Teck Hon 12 shares)	§1,200.00
20	" " (16/8 sold to Ban Swee Huat 12 shares)	1,200.00
	Wee Ang Chee (16/8 sold to Chua (of middle house) 6 shares)	600.00
	Chua Sze Tiong (16/8 sold to Chua Kim Siong 20 shares)	2,000.00
	Low Kim Huat (17/8 sold to Lim Kai 6 shares)	600.00
	Low Kim Huat (17/8 re-purchased 4 shares)	400.00

Exhibits

Exhibit D.1 (12) - DEED OF TRANSFER OF SHARES
(also Exhibit D.2)

D.1

(12) Deed of
Transfer of
Shares (also
Exhibit D.2)

English Translation

R.705/46.

Deed of Transfer of Shares by Sale

8th July, 1946.

This document is executed in the town of Kuala
Trengganu on the 8th day of Rejab, 1365 correspond-
ing to 8th day of July, 1946.

I, KONG AH HOCK of Jerteh, Besut, Trengganu,
owner of three and a half shares in Trengganu Bus
Company Ltd., which has the privilege to operate the
route between Kuala Trengganu and Jerteh, Besut, on
the date of this document, do truly acknowledge re-
ceipt of cash from CHUA CHEE CHOR of No.145 Jalan
Kampong China, Kuala Trengganu, in the sum of four
hundred and fifty (\$450.00), and I sell my three and
a half shares in the Trengganu Bus Co. Ltd., for a
sum of four hundred and fifty dollars (\$450.00) to
CHUA CHEE CHOR above named.

10

2. From this date I will have no further interest
in those three and a half shares in the Bus Company
Ltd., which (3½ shares) are transferred to the
ownership of CHUA CHWEE CHOR abovenamed as the law-
ful owner.

20

3. In witness whereof I, KONG AH HOCK, and I,
CHUA CHWEE CHOR both parties, set our hands here-
under in the presence of witnesses, that is all on
account of its validity and correctness.

Signature of Transfer
Sd. xx (In Chinese
characters)

Signature of Transferee
Sd. xx (in Ch.characters)

30

Sd. Kong Ah Hock
personally

Sd. Chua Chwee Chor,
personally.

Signed in our presence

Sd. xx (in Ch.characters)

Sd. xx (In Ch.characters)

Witness

Witness

Writer:
Che Long bin Abbas
Licence No.31/1946
Sd. xxx

Chop Stamp
\$1

Stamp
\$2

40

Sd. xxx
9.7.46

Collector of Stamp Rev.K.Tr.

Exhibit D.1 (13) - BUSINESS REGISTRATION FORM A
in respect of CHUA BAN SENG
(also Exhibit D.9)

Exhibits

D.1

Form A
(Rule 3)

(13) Business
Registration
Form A in
respect of Chua
Ban Seng
(also Exhibit
D.9)

THE REGISTRATION AND LICENSING OF BUSINESSES
ORDINANCE, 1953.

No. of Certificate or Licence.

10 To the Registrar of Businesses,
Malayan Union Kuala Lumpur.

L/We the undersigned submit for registration/
licensing the following particulars regarding the
under-mentioned business:

- | | | |
|----|---|---|
| 1. | The business name
(If such name is
Chinese give name in
Chinese and in English
characters.) | 1. Chua Ban Seng
? (In Chinese
Character) |
| 20 | 2. The number of the cer-
tificate (except in
the case of a first
application for regis-
tration or licensing) | 2. 8609 |
| | 3. Constitution of
business | Sole Proprietorship |
| | 4. The general nature of
the business | Importer - Exporter |
| | 5. The principal place of
the business | 145 Kampong China,
Kuala Trengganu. |
| 30 | 6. The principal place of
the business in the
Federation, to which
any official communi-
cation or legal process
may be addressed or
delivered. | |
| | 7. The date of commence-
ment | 1.3.'25 |
| 40 | 8. Branches of the
business | Nil. |

Exhibits

D.1.

(13) Business
Registration
Form A in
respect of Chua
Ban Seng
(also Exhibit
D.9)

- continued

9. The name of the
partnership business
and of the associates
thereof are contained
in a written agree-
ment dated
and made between
(parties) a copy of
which is annexed to
this form verified by
my/our signatures or

NIL.

10

There is no written
agreement as to the
terms of the partner-
ship or

A copy of the written
agreement was attached
to the application for
the registration of
the business.

20

Dated this day of 19

(Signed)

Exhibits

Full name or names of associate or associates	Here give all Chinese names in Chinese characters.	Here state any previous names and any aliases, opposite each name in the first column	Here give Chinese names in Chinese characters.	Date of Birth if under 21 years	Sex Male or Female	Nationality and race.	Date of entry into business	Particular office held in or nature of the association with the business.	Usual residence
(1)		(2)							
Chua Boon King	?	-	-			Ch. Hokkien	1.3.'25	Sole-Prop.	

- continued.

Date of Regtn. Date Compld. with

14.1.48 9.11.47.

145, Kampong China
Kuala Trengganu.

NOTE:- If any associate is an associate of any other business particulars of which also require registration, a schedule must be entered on the blank pages or attached giving the name of each of the businesses of which he is an associate.

- (1) The name given must be the name by which the associate is commonly known. In the case of a Christian or non-Asiatic give all first or Christian names and surname; in the case of a Chinese give sēn and other names, in the case of a Malay, Indian or other Asiatic give name of the associate and name of his father and include any personal vilasan, etc.
- (2) When any associate is known in business or in ordinary life by more than one name or by a "milk" name, nickname, etc. all these must be shown as aliases.
- (3) e.g., "Partner" "Member of Joint Family" "Manager" "Sleeping Partner", etc.

D.1.
(13) Business Registration Form A in respect of Chua Ban Seng (also Exhibit D.9)

VERIFICATION BY ASSOCIATES.

Exhibits

D.1.

I
confirm the accuracy of all the statements made in
this form and declare that I ^{am} ~~was~~ an associate of
the business the name of which is

(13) Business
Registration
Form A in
respect of Chua
Ban Seng
(also Exhibit
D.9)

Date 195 .

(Signature)

- continued.

10 I certify that the Signature of
right thumb print was affixed to the above de-
claration in my presence after I had satisfied my-
self that the person so affixing such Signature
right thumb
print was in fact the person named in such declara-
tion and understood the purport of such declaration.

Dated at this day
of 195 .

Exhibits

P.18

Trengganu Bus
Co. Ltd. Journal
1947.

Exhibit P.18 - TRENGGANU BUS CO. LTD. JOURNAL 1947

Translation of a page of Chinese Account for period up to and including 31st December (1946) marked "X"

Balance Sheet Account of (Trengganu Bus) Company Limited
for period ending 31st December (1946) and entered into January 1947 Account Book

Wee Boon Siong - 80	Fully paid shares	ø8,000.00	By Purchase of Buses	ø5,399.90
Chua Chue Chor - 70	"	7,000.00	Bus No.S.2612	5,194.06
Wee Geok Lin - 62	"	6,200.00	" S.3706	4,527.36
Wee Kiu Boon - 60	"	6,000.00	" J.1060	4,832.21
Tan Chew Yam - 50	"	5,000.00	" S.2955	4,832.27
			S.3176	
Wee Chew Kwee - 45	"	4,500.00	" J.4167	5,933.??
Lim Kor - 40	"	4,000.00	" J.3563	6,694.04
Wee Yong Mia - 35	"	3,500.00	building office	5,901.07
			By stationery	644.04
Low Kim Huat - 35	"	3,500.00	By Furniture	651.44
Wee Chin Siong - 30	"	3,000.00	By spare parts	2,357.18
			By motor car tyres	1,669.00
Low Kim Kee - 25	"	2,500.00	By Jerteh (?)	82.00
Chua Keng Sin - 18	"	1,800.00	By printing tickets 2789 Books)	836.70
Chua Ban Seng - balance received		2,366.34	By " for goods (574 books)	114.80
			By purchase of car chassis from Wan	
Profit & Loss a/c - balance of last year's profit		285.80	Jusoh (?)	2,620.00
			By Government road tax &c. (balance owing last year)	86.00
			By Union Bus Co. (amount owing	3,663.45
			By Kelantan (NETS) Co.	1,100.00
			By withdrawal (by Boon Chai)	12.90
			By Deposit - Cash in hand	500.00

Total 14 items

ø57,652.14

ø57,652.14

Exhibit D.1 (1) - LETTER from COMPTROLLER OF
INCOME TAX to CHUA BOON KING

Exhibits

D.1

COMPTROLLER OF INCOME TAX
FEDERATION OF MALAYA

(1) Letter from
Comptroller of
Income Tax to
Chua Boon King.
18th May, 1950.

Ref.GG.9355.

Suleiman Building,
P.O. Box 1044,
Kuala Lumpur.

18th May, 1950.

10 Mr. Chua Boon King,
145 Kampong China,
Kuala Trengganu.

Dear Sir,

With reference to your Return of Income, will
you please say whether the names Chua Boon King,
Chua Ban Seng and Chua Chwee Chor refer to one and
the same person and whether you are the proprietor
of Chop Ban Seng and the Cashier's Director of
Trengganu Bus Co. Ltd.

Yours faithfully,

20 Sd. ?
for Comptroller of Income Tax.

Exhibit D.1 (2) - LETTER from CHUA BOON KING
to COMPTROLLER OF INCOME TAX

(2) Letter from
Chua Boon King
to Comptroller
of Income Tax.

Chua Boon King
Chop Ban Seng,
145 Kampong China,
Kuala Trengganu.
24th May, 1950.

30 Comptroller of Income Tax,
Federation of Malaya,
P.O. Box 1044,
Kuala Lumpur.

Sir,

Reference C.G. 9355

I have the honour to acknowledge the receipt of
your letter dated 18th May, 1950 and in reply I beg
to state for your information that Chua Boon King is
my real name and Chua Chwee Choor is my nick name.
Chop Ban Seng is the name of my bicycle shop.

40 I am the proprietor of Chop Ban Seng and it was

Exhibits

D.1

(2) Letter from
Chua Boon King
to Comptroller
of Income Tax.

24th May, 1950

- continued.

registered in the name of Chua Boon King. My share
in the Trengganu Bus Co. Ltd. of Kuala Trengganu
was registered in the name of Chua Chwee Chor.

I was a cashier of the Trengganu Bus Co. Ltd.
up to 31st December, 1948 and I am the Director of
the Company.

I have the honour to be,
Sir,
Your obedient servant.

(7) Page 1 of
Chinese Account
Book of Chua
Ban Seng.

31st October,
1950.

Exhibit D.1 (7) - Page 1 of Chinese Account Book of CHUA BAN SENG 10

Translation of page 1 of Chinese Account Book
of Chua Ban Seng

Capital from Chew Char	₹10,000.00
do. profits from 1948	110.34
do. profits from 1949	502.50
	<hr/>
	₹10,612.84
Capital, profits as at 31.10.1950	<hr/> 2,933.25
	₹13,546.09

Exhibit D.1 (3) - PLAINT in C.S.6/1952
(also Exhibit D.3)

Exhibits

D.1

FEDERATION OF MALAYA

IN THE HIGH COURT AT KUALA TRENGGANU

Civil Suit No.6 of 1952

(3) Plaint in
C.S.6/1952
(also Exhibit
D.3)

15th March,
1952.

BETWEEN

CHUA TENG TECK (Administrator of the
Estate of Chua Ah Poi, deceased, of
No.13, Kampong Daik, Kuala Trengganu)
Plaintiff

10

- and -

1. CHUA BOON GIM, Managing Partner
of Chop Ban Seng, No.145, Kedai
Bunjai Kuala Trengganu, Trengganu
2. Chop Ban Seng, No.145, Kedai
Bunjai, Kuala Trengganu, Trengganu
Defendants

P L A I N T

20 Chua Teng Teck the abovenamed Plaintiff states
as follows:-

1. I am the only son of Chua Ah Poi, late of No.
13, Kampong Daik, Kuala Trengganu, who died in China
on the 9th day of April 1939.

2. On the 10th day of September 1951, in Probate
No.36 of 1951 Letters of Administration in the
estate of the said Ong Ah Poi, deceased, was grant-
ed to me by this Honourable Court and Grant of
Letters of Administration was duly extracted.

30 3. During his life time my late father the said
Chua Ah Poi was a partner in the 2nd defendant firm
Chop Ban Seng which was carrying on business as Im-
porter and Exporter of Bicycle and Bicycle Access-
ories at No.145, Kedai Bunjai, Kuala Trengganu, and
was still a partner in the said business at the time
of his death.

4. The 1st Defendant is and was at all material
times the partner and manager of the said Chop Ban
Seng which is still carrying on the business of

Exhibits

D.1

(3) Plaint in
C.S.6/1952
 (also Exhibit
D.3)

15th March,
 1952

- continued.

Importer and Exporter of Bicycle and Bicycle Accessories at No.145, Kedai Bunjai, Kuala Trengganu.

5. Since the Grant of Letters of Administration to me, in spite of repeated requests the Defendants have failed to submit Accounts of the said Chop Ban Seng and my father's share therein.

6. I pray for the following orders:-

(a) that the defendants submit true and proper accounts of Chop Ban Seng;

(b) for payment to the Plaintiff of all monies found due to Chua Ah Poi, deceased, on such accounts;

10

(c) Costs of this Action;

(d) such further and other relief as this Honourable Court may see fit to give.

Sgd. ? (In Chinese)

Signature of abovenamed
 Plaintiff.

I, Chua Teng Teck, hereby declare that the above statement is true to my knowledge, except as to matters stated on information and belief, and as to those matters I believe to be true.

20

Dated this 15th day of March, 1952.

Sgd. ? (In Chinese)

Signature of abovenamed
 Plaintiff.

Sd: ?

Advocate & Solicitor,
 Singapore & Federation of Malaya.

Exhibit D.1 (10) - CHINESE NOTE FOR LOAN
(also Exhibit D.7)

Exhibits

D.1

English Translation

CHUA BAN SENG
No.145 Kedai Binjai
TRENGGANU

(10) Chinese
Note for loan
(also Exhibit
D.7)

18th March,
1952.

Date 195..

Chua Gim Sui borrows (borrowed) cash five hundred
seventy five only.

10

Borrower

Sgd. (In Chinese characters)
(Chua Gim Sui)

Dated 18.3.1952.

Translated on 15.4.54 by
Lau Chee Hai & Musa B. Awang.

Exhibit D.1 (11) - CHINESE NOTE FOR LOAN
(also Exhibit D.8)

(11) Chinese
Note for loan
(also Exhibit
D.8)

English Translation.

30th day of 3rd
month of 41st
year of Chinese
Republic.

20

CHUA BAN SENG
No.145 Kedai Binjai,
TRENGGANU

Date 195..

Chua Gim Sui has borrowed from Chua Boon Gim
cash in the sum of one thousand three hundred and
seventy six dollars and fifteen cents (and) a docu-
ment was prepared.

And borrowed cash four thousand eight hundred
and fifty dollars.

30

Total for two items is six thousand two hundred
and twenty six dollars and cents fifteen only.

Borrower

Sgd. (In Chinese characters)
Chua Gim Sui.

Dated 30.3.41 Ch. Republic Year.

Translated on 15.4.54 by Lau Chee
Hai & Musa bin Awang.

Exhibits

Exhibit D.1 (9) - CHINESE NOTE FOR LOAN
(also Exhibit D.C)

D.1

(9) Chinese
Note for loan
(also Exhibit
D.6)

English Translation

CHUA BAN SENG
No.145 Kedai Binjai
TRENGGANU

13th day of 4th
or 5th month of
41st year of
Chinese Republic.

Date 195..

Now request Chua Chwee Chor to loan cash four
hundred and eleven dollars only.

Borrower

10

Sgd. (In Chinese characters)
Chua Gim Sui.

Dated 13th day of 5th or fourth
(not clear) Chinese month of the
41st year of Ch. Republic.

Translated on 15.4.54 by Lau
Chee Hai & Musa bin Awang.

(4) Amended
Defence of 1st
Defendant in
C.S.6/1952
(also Exhibit
D.4)

Exhibit D.1 (4) - AMENDED DEFENCE of 1ST DEFENDANT
in C.S.6/1952
(also Exhibit D.4)

20

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

Undated.

IN THE HIGH COURT AT KUALA TRENGGANU

Civil Suit No. 6 of 1952

BETWEEN

CHUA TENG TECK (Administrator of the
Estate of Chua Ah Poi deceased) of
No.13 Kampong Daik Kuala Trengganu
Plaintiff

versus

1. CHUA BOON GIM of No.145 Kedai
Binjai Kuala Trengganu
2. CHOP BAN SENG of No.145 Kedai
Binjai Kuala Trengganu Defendants

30

AMENDED STATEMENT OF DEFENCE OF FIRST DEFENDANT

The abovenamed First Defendant states as
follows:-

1. The First Defendant has no knowledge of the facts pleaded in paragraphs 1 and 2 of the Statement of Plaintiff.

Exhibits

D.1

2. Paragraph 3 of the Statement of Plaintiff is denied. Chua Ah Poi was never at any time a partner in the First Defendant's business of Chop Ban Seng.

(4) Amended Defence of 1st Defendant in C.S.6/1952 (also Exhibit D.4)

10 3. In reply to paragraph 4 of the Statement of Plaintiff the First Defendant contends that he is now and always has been the sole proprietor of the firm of Ban Seng of No.145 Kampong China Kuala Trengganu.

Undated.

- continued.

4. Paragraph 5 of the Statement of Plaintiff is denied.

5. An amended list of the First Defendant's documents relating to the Suit with a sufficient description thereof is annexed hereto.

6. The Plaintiff's alleged right of action did not accrue if at all within three years next before the commencement of this action and was barred by the law of Limitation in force in the State of Trengganu.

20 Wherefore the First Defendant prays that this suit may be dismissed and with costs.

Sgd. Shearn Delamore
FIRST DEFENDANT'S SOLICITORS
Sgd. ? (In Chinese)
FIRST DEFENDANT'S SIGNATURE

30 I CHUA BOON GIM alias CHUA BOON KING the First Defendant abovenamed hereby declare that the above Statement is true except as to matters stated on information and belief and as to those matters I believe the same to be true.

Dated this day of 1952

Sgd. ? (In Chinese)
FIRST DEFENDANT'S SIGNATURE

This Amended Statement of Defence is filed for and on behalf of the First Defendant by Messrs. Shearn, Delamore & Company of and whose address for service is 66 Ampang Road, Kuala Lumpur.

Exhibits

D.1

(5) Amended List of Documents of 1st Defendant in C.S.6/1952. (also Exhibit D.4)

Exhibit D.1 (5) - AMENDED LIST OF DOCUMENTS of 1ST DEFENDANT in C.S.6/1952 (also Exhibit D.4)

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE HIGH COURT AT KUALA TRENGGANU

BETWEEN

CHUA TENG TECK (Admr. of the Estate
Chua Ah Poi, Deceased of No.13 Kampong
Diak, Kuala Trengganu Plaintiff

versus

10

1. CHUA BOON GIM of No.145, Kedai
Binjai, Kuala Trengganu
2. CHOP BAN SENG of No.145, Kedai
Binjai, Kuala Trengganu Defendants

AMENDED LIST OF DOCUMENTS OF THE FIRST DEFENDANT

1. Original letter dated 18.5.1950 from Comptroller of Income Tax, Federation of Malaya, Kuala Lumpur, in GG.9355
2. Copy of letter dated 24.5.1950 from Chua Boon King to Comptroller of Income Tax in GG.9355. 20
3. Form "A" in respect of the registration of business of Chua Ban Seng, No.145, Kampong China, Kuala Trengganu.
4. Accounts of the firm of Chop Ban Seng for the year 1950.
5. Power of Attorney registered in the Supreme Court Kuala Trengganu No.60/57 serial No.1/56 dated 9.7.57 (3/9/53)
6. Accounts relating to the indebtedness of Chua Teng Teck to the First Defendant. 30

Sgd. ? (In Chinese)

FIRST DEFENDANT.

Exhibit D.1 (6) - AMENDED DEFENCE of 2ND DEFENDANT
in C.S.6/1952
(also Exhibit D.4)

Exhibits

D.1

IN THE SUPREME COURT OF THE FEDERATION OF MALAYA

IN THE HIGH COURT AT KUALA TRENGGANU

Civil Suit No.6 of 1952

BETWEEN

CHUA TENG TECK (Administrator of the
Estate of Chua Ah Poi deceased) of
No.13 Kampong Daik Kuala Trengganu

Plaintiff

versus

1. CHUA BOON GIM of No.145 Kedai
Binjai Kuala Trengganu

2. CHOP BAN SENG of No.145 Kedai
Binjai Kuala Trengganu

Defendants

AMENDED STATEMENT OF DEFENCE OF SECOND DEFENDANT

The abovenamed Second Defendants state as follows:-

- 20 1. The Second Defendants have no knowledge of the facts pleaded in paragraphs 1 and 2 of the Statement of Plaintiff.
2. Paragraph 3 of the Statement of Plaintiff is denied. Chua Ah Poi was never at any time a partner in the Second Defendant firm, the sole proprietor whereof is and always has been the First Defendant Chua Boon Gim alias Chua Boon King.
- 30 3. In reply to paragraph 4 of the Statement of Plaintiff the Second Defendants allege that the First Defendant Chua Boon Gim alias Chua Boon King is now and always has been the sole proprietor of the firm of Ban Seng of No.145 Kampong China Kuala Trengganu.
4. Paragraph 5 of the Statement of Plaintiff is denied.
5. The Second Defendants have no documents relating to this suit other than those disclosed by the First Defendant on which the Second Defendants rely.

(6) Amended
Defence of 2nd
Defendant in
C.S.6/1952
(also Exhibit
D.4)

Undated.

Exhibits

D.1

(6) Amended
Defence of 2nd
Defendant in
C.S6/1952
(also Exhibit
D.4)

Undated.

- continued.

6. The Plaintiff's alleged right of action did not accrue if at all within three years next before the commencement of this action and was barred by the Law of Limitation in force in the State of Trengganu.

Wherefore the Second Defendants pray that this suit may be dismissed and with costs.

Sgd. Shearn Delamore

Sgd. ? (In Chinese)

SECOND DEFENDANTS'
SOLICITORS.

SIGNATURE OF PROPRIETOR OF
SECOND DEFENDANTS

10

I CHUA BOON GIM alias Chua Boon King the proprietor of the Second Defendants hereby declare that the above statement is true except as to matters stated on information and belief and as to those matters I believe the same to be true.

Dated this day of 1952.

Sgd. ? (In Chinese)

SIGNATURE OF PROPRIETOR
SECOND DEFENDANTS

This Amended Statement of Defence is filed for and on behalf of the Second Defendants by Messrs. Shearn Delamore & Co. of and whose address for service is 66 Ampang Road, Kuala Lumpur.

20

(8) Letter to
Chua Gim Swee
from Chua Boon
King alias
Chua Chwee Cha
19th November,
1952.

Exhibit D.1 (8) - LETTER to CHUA GIM SWEE from
CHUA BOON KING alias Chua Chwee Cha

19th November, 1952.

Chua Boon King alias
Chua Chwee Cha,
145 Kedai Finjai,
Trengganu, 19.11.52.

30

Mr. Chua Gim Swee,
Jerteh, Trengganu.

Dear Swee,

I would draw your attention to my money loan to you prepared with 3 pieces Bills or documents

admitted to your liability and signature as described below:

(1)	18.3.52	To Cash	¥ 575.00
(2)	30.3.52	" "	1,376.15
(3)	30.3.52	" "	4,850.00
(4)	13.4.52	" "	411.00
			¥7,212.15
			¥7,212.15

Exhibits

D.1

(8) Letter to Chua Gim Swee from Chua Boon King alias Chua Chwee Cha. 19th November, 1952

- continued.

10 In regard to bicycles and accessories which you took from me previously are also to be paid, the same a statement of account will be followed in due course.

Yours faithfully,

Sgd.

Exhibit P.1 (18) - BILL
(also Exhibit P.6)

P.1

(18) Bill (also Exhibit P.6) 3rd October, 1953.

Translated from Chinese

No.0515

Bicycle spare parts
Accessories,
Tubes & Tyres
Mechanical Dealers

BOON GIM

No. 232, Kampong China,
Kuala Trengganu

M. Chop Kheng Hong.

Date 3.10.53.

20

<u>Quantity</u>	<u>Description</u>	<u>Price</u>	<u>¥ Cts.</u>
6	Green Sports bicycles @ 150.50		903.00

Time limit is 10 days
Commission ¥3.50 on each
(bicycles)

BR
22764

BT
47205
47196
47199
47197

30

Total ¥

Signature of Consignee.

Translated on 26.1.54 by Mr. Lau
Chee Hai & Musa bin Awang.

Exhibits

Exhibit P.1 (25) - LETTER from CHUA CHUI CHOR to
CHOP TECK HONG
(also Exhibit P.6)

P.1

(25) Letter from Translated from Chinese
Chua Chui Chor
to Chop Teck Hong
(also Exhibit
P.6)

CHUA BAN SENG
No. 232, Kampong China,
Trengganu.

7th October,
1953 (42nd year
of Chinese
Republic)

Date 195..

Chop Teck Hong

Sir,

10

I have to inform that now on receipt of letter ordering vehicles (1) find, elder brother, that now all of them have been sold out, brother, some days later when vehicles arrive I must send (them), the forthcoming vehicles are blk, could they be disposed of in elder brother's place? Please reply by letter. They will arrive some time later and I send a list 05/2 in which there is a shortage of \$301.00. Brother, if convenient and if you have cheque please send one - don't fail.

20

And at present I fix the prices of vehicles; if on one month's credit add \$5.50 on each SANG PUT EE ANN bicycle, if within ten days there is no additional charge on each.

7th day of the 10th Moon of the 42nd Chinese Republic

Brother Chua Chui Chor.

Translated on 2.2.54 by Lau
Chee Hai & Musa bin Awang.

Exhibit P.1 (19) - BILL
(also Exhibit P.6)

Exhibits

P.1

Translated from Chinese

Bicycle spare parts
Accessories, Tubes & Tyres,
Mechanical Dealers

No.0516

(19) Bill
(also Exhibit
P.6)

29th October,
1953.

No. 232 Kampong China
Kuala Trengganu.

(Chua Boon Gim)

10 M.Chop Hock Hoo, Kelantan Date 29.10.53 M.M.P.K.

<u>Quantity</u>	<u>Description</u>	<u>Price</u>	<u>¢ Cts.</u>
2	Green Sports bicycles, complete with speed gear, hub brake	148/-	296.00
1	Green Sports bicycle, complete with speed gear, hub brake	153/-	<u>153.00</u>
	Total		<u><u>449.00</u></u>

20 BS
26580
26564
BV
9540

Signature of Consignee.

Translated on 2.2.54 by Lau Chee Hai
& Musa bin Awang.

ExhibitsExhibit P.1 (20) - BILL
(also Exhibit P.6)

P.1

(20) Bill
(also Exhibit
P.6)
29th October,
1953.Translated from Chinese

Bicycle spare parts CHUA BOON GIM
Accessories, Tubes &
Tyres, Mechanical No. 232 Kampong China,
Dealers Kuala Trengganu.
M. Chop Teck Hoon, Kelantan Date 29.10.53.

<u>Quantity</u>	<u>Description</u>	<u>Price</u>	₹	Cts.
3	Green Sports bicycle complete @ \$150.50		451.00	
			(figures not clear)	
			May be \$450.00	
BS 26567				
BS 26559				
BS 26578				
		Total	₹	

10

Signature of Consignee

Translated on 2.2.54 by Lau Chee
Hai & Musa bin Awang.

(21) Bill
(also Exhibit
P.6)Exhibit P.1 (21) - BILL
(also Exhibit P.6)28th November,
1953.Translated from Chinese

No. 0521

Bicycle spare parts, CHUA BOON GIM
Accessories, Tubes &
Tyres. No. 232 Kampong China,
Kuala Trengganu.

M. Chop Gim Seng, Pasie Puteh Date 28.11.53
M.M.P.K.

<u>Quantity</u>	<u>Description</u>	<u>Price</u>	₹	Cts.
2	Green Sports bicycles complete 22"	155.50	311.00	
1	Black Sports bicycle Hub brake	119.50	119.50	
2	" " bicycles " "	123.50	247.00	
1	" " bicycle " " 22"	153.00	153.00	

30

Translated on 2.2.54 by Lau Chee
Hai & Musa bin Awang.

Exhibit P.1 (22) - BILL
(also Exhibit P.6)

Exhibits

P.1

Translated from Chinese

Bicycles spare parts, CHUA BOON GIM
Accessories, Tubes &
Tyres Mechanical No. 23 Kampong China
Dealers Kuala Trengganu.
M. Chop Gee Hua, Kelantan Date 28.11.53

(22) Bill
(also Exhibit
P.6)
28th November,
1953.

Quantity	Description	Price	¢	Cts.
10	1 12" Speed, black bicycle @ 153			
		In stock	153.00	
	1 21" black sports bicycle " "			
	with hub brake @	123.50	123.50	
	Add commission on each \$3.50			

Translated on 2.2.54 by Lau Chee
Hai & Musa bin Awang.

Exhibit P.1 (23) - BILL
(also Exhibit P.6)

(23) Bill
(also Exhibit
P.6)
28th November,
1953.

20 Translated from Chinese No.0524
Bicycle spare parts CHUA BOON GIM
Accessories, Tubes &
Tyres Mechanical No.232 Kampong China
dealers. Kuala Trengganu.
M. Hock Hoo Huin Pasir Mas, Kelantan Date 28.11.53
M.M.P.K.

Quantity	Particulars	Price	¢	Cts.
	2 Green bicycles complete	155.50		
	with speed	155.50	311.00	
30	2 Sports with hub brake	123.50	247.00	
	Time limit is 10 days			
	Add commission \$3.50 on each			
	Total	¢		

Signature of Consignee

Translated on 2.2.54 by Lau
Chee Hai & Musa bin Awang.

ExhibitsExhibit P.1 (17) - BILL
(also Exhibit P.6)

P.1

Translated from Chinese

No. 0508

(17) Bill
(also Exhibit
P.6)Bicycle spare parts
Accessories, Tubes &
Tyres
Dealers.

BOON GIM

No. 232, Kampong China,
Kuala Trengganu.6th September,
1953.

M. Chop Kheng Hong

Date 6.9.53

<u>Quantity</u>	<u>Description</u>	<u>Price</u>	<u>¢</u>	<u>Cts.</u>	
2	Green bicycles at	¥118.50	237.00		10

Time limit 10 days

Add commission ¥3.50 on each

BT 34573

BT 34575

Received payment at Kuala Tr.

Total ¥

Signature of Consignee

Translated on 26.1.54 By Lau
Chee Hai & Musa bin Awang.(24) Receipt
(also Exhibit
P.6)Exhibit P.1 (24) - RECEIPT
(also Exhibit P.6)

20

8th December,
1953.English TranslationStamp .6 cts.
cancelled
PAID
21 Jan 195?CHUA BAN SENG
No. 145 Kedai Binjai,
Kuala TrengganuReceipt from Chua Ban Seng Date 8.12.1953
issued

Received from HOCK HOE

The sum of dollars four hundred and forty nine
being payment of vehicle (016)

30

¥449.00

Sgd. illegible
Signature
8.12.1953Translated on 7.4.54
Fee ¥2.00

Exhibit P.1 (26) - LETTER from CHOP OF HOCK HOE
CO. to GIM HOON
(also Exhibit P.6)

Exhibits

P.1

English Translation
(from Chinese)

(26) Letter from
Chop of Hock Hoe
Co. to Gim Hoon
(also Exhibit
P.6)

10th February,
1954.

Mr. Gim Hoon, please read.

10 With due respect (1) inform you that, (1) have
received your letter yesterday; it was read and
understood. Regarding the account, you have come
to my shop and I have discussed in your presence
regarding the balance of the debt due in the sum of
\$449.00 only. Basing on this account 2 cheques
were made up in Chinese to settle the former account
between both parties. Now (we) started our business
again. As regards payment it is agreed to be made
within a period of 30 days. I shall abide to this
agreement and make no default. Please send goods
as early brother Cho It Chut, i.e. bad character and
20 things could not be settled. That is all. I request
for a written reply early so that no misunderstand-
ing would arise between us in our dealing. With all
best regards.

Younger brother (? illegible)

(Chop of Hock Hoe Co.)
Kota Bharu.

Dated 10.2.1954.

Translated on 7.4.54.
Fee \$3.00.